

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

20 MAY 2021

DAY 399



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Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 20 MAY 2021

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody.

ADV PRETORIUS SC: Morning Chair.

CHAIRPERSON: Are you ready?

ADV PRETORIUS SC: Yes. The witness Stephen has been sworn in chambers and is ready to give evidence under an order of protected identity issued by yourself.

CHAIRPERSON: Yes. So I just want to ...

10 **ADV PRETORIUS SC:** Stephen are you there?

CHAIRPERSON: The media is reminded

STEVEN: I am here Sir.

CHAIRPERSON: The media is reminded and the public are reminded that I issued an order in respect of this witness' evidence aimed at protecting his identity. I will not repeat the order everybody knows the substance of the order. Okay. Good morning once again Stephen.

STEVEN: Good morning Chairperson.

20 **CHAIRPERSON:** Thank you once again for availing yourself to assist the commission. We appreciate it very much.

STEVEN: It is a pleasure Chairperson.

CHAIRPERSON: Yes. You have already taken the oath so Mr Pretorius can start.

STEVEN: Thank you Chair.

ADV PRETORIUS SC: Stephen do you have a bundle before

you after the divider YY7? Bundle SSA02.

STEVEN: Advocate I have it.

ADV PRETORIUS SC: Bundle SSA2(a) what appears on the face of it to be an affidavit attested to you by yourself. Do you have that?

STEVEN: Yes I do.

ADV PRETORIUS SC: Alright. The affidavit appears at YY7 SSA page 302 would you look at page 302 please; is that your affidavit as the first page?

10 **STEVEN**: Yes it is my affidavit Advocate Pretorius.

ADV PRETORIUS SC: And if you go to page 314 whose signature is that at the top of the page?

STEVEN: It is my signature Advocate.

ADV PRETORIUS SC: Alright. And as far as you are concerned are the contents of this affidavit true and correct?

STEVEN: Yes that is so.

20 **ADV PRETORIUS SC**: Alright. Let us go to page 302 please you state there in the introductory portion what your current position and current duties are. We need not detail those at present but you have a history of intelligence activities with the Intelligence arm of the ANC Mkhonto Wesizwe is that correct?

STEVEN: That is correct Chairperson – Advocate.

ADV PRETORIUS SC: Yes and in 1995 is it correct that you

were absorbed into the New Intelligence Structure of South Africa?

STEVEN: That is true.

ADV PRETORIUS SC: And if we can go on to page 10 the Chair can read the background set out in the other paragraphs but in paragraph 10 it says you were appointing – appointed as acting Deputy Director General Domestic Intelligence, is that correct in 2015? Let me put it this way the allegations in paragraph 10 are they correct? Can you
10 hear me Stephen? Stephen can you unmute please. In other words switch your microphone on.

STEVEN: Yes I can.

ADV PRETORIUS SC: And leave it on.

STEVEN: I did.

ADV PRETORIUS SC: Yes.

STEVEN: I did. I did. I did.

ADV PRETORIUS SC: Alright so if you would look at paragraph 10 it talks of an appointment in 2015 and are the details in paragraph 10 correct?

20 **STEVEN**: That is correct.

ADV PRETORIUS SC: Right. Let us then go to the substance of your affidavit and paragraph. We know that in 2015 the State Of Nation Address was set to occur at 19H00 on Thursday the 12th of February 2015. Do you recall that?

STEVEN: I recall that Advocate.

ADV PRETORIUS SC: Right. And what notice did the SSA receive regarding the potential for disruption of that event?

STEVEN: What we received at the time was that one political party in Parliament met the former President to address the joint sitting of Parliament. Our task was to ensure that the President of the Republic is able to address the Joint Sitting of Parliament. That is what we know – knew at the time.

ADV PRETORIUS SC: Were there concerns about the
10 safety of the President?

STEVEN: Yes there were concerns about the safety of the President.

ADV PRETORIUS SC: Right. And in paragraph 18...

STEVEN: Because of the...

ADV PRETORIUS SC: I am sorry I interrupted you.

STEVEN: I am saying because of what was then generally known in public that certain political organisations in Parliament were not happy that the President was going to address the Joint Sitting.

20 **ADV PRETORIUS SC:** Right. In paragraph 18 you set out the steps taken to deal with this threat. What were those steps? These are all matters of public knowledge now I might add. But what were those steps? Paragraph 18.

STEVEN: The steps that we had to put in place as the National Joints because when we deal with events of such

magnitudes – magnitude it may not necessarily be the State of the Nation but even events such as elections we work within the auspices of the National Joints. So in terms of the decision that we took as a National Joint based on the threat assessment at the time ordinarily when there is a sitting of that nature the SONA there are role players. The military is part of the Nat Joints SSA, it is part of the Nat Joints and the lead department is SAPS who then becomes the Chair of the Nat Joints. SSA becomes the co-chair as well as the defence.

ADV PRETORIUS SC: Right.

STEVEN: So ...

ADV PRETORIUS SC: Just for the record before you go on.

STEVEN: (inaudible)

ADV PRETORIUS SC: I am sorry to interrupt you just for clarity sake Nat Joints – N-a-t J-o-i-n-t-s appears to be a joint committee representing various entities in which the SSA plays a leading role, is that correct?

STEVEN: Yes but it is not SSA that plays a leading role. It is the SAPS that is the Chair. The two departments meaning SSA and the Defence are co-chairs of the National Joint Intelligence structure.

ADV PRETORIUS SC: Alright.

STEVEN: In brief Nat Joints.

ADV PRETORIUS SC: Yes. Okay.

STEVEN: So as a rule when the sitting of Parliament we normally ask our colleagues in the Defence from the Joint perspective that they must ensure that the – there is no fly zone – the Parliament precinct becomes a no fly zone. But below a certain radius the military cannot enforce the flying of smaller devices such as drones that is where the SSA then came in to deploy the device that we deployed which eventually jammed the signals in Parliament.

ADV PRETORIUS SC: So a jammer was deployed to
10 prevent a drone from being operated at a low altitude at the State of Nation Address, is that correct?

STEVEN: That is correct.

ADV PRETORIUS SC: Right. What do you say in
paragraph 19 then?

STEVEN: The – this is correct it is true that the jamming device was to be placed outside the chambers in a position where the former President was supposed to take the final salute before he enters the chamber. Then after that the jammer was supposed to be removed from sight because
20 that is the area which was identified for that purpose. But what then happened a decision was taken without the knowledge of the Joint chiefs by Mr Thulani Dlomo. The jammer ended up being deployed inside the chamber in the gallery where the visitors are allowed to access Parliament on that day. That is what happened that day

ADV PRETORIUS SC: What was the effect of putting the jammer inside Parliament?

STEVEN: The effect would have meant that cell phones were not going to be able to function on that day if that jamming device was placed inside at the chamber. Because the jamming device is – is operating on a radio signal. So it interferes with other radio signal and the cell phone works on the basis of that signal – the radio signals. So it confuses the – the cell phone device – the GSM system and
10 as a result of that cell phones would not function. That was the effect of placing the jammer inside the chamber.

ADV PRETORIUS SC: And would that have as a consequent – consequence that there could be no filming or sound recordings transmitted from the Parliamentary chamber to the public as to what was happening within Parliament.

STEVEN: No – no because the jamming device does not interfere with the terrestrial lines. The billing of what is happening in Parliament is based on terrestrial lines. So
20 there would not have been any interference in terms of the jamming device and the billing of the activities inside the chamber.

ADV PRETORIUS SC: Yes but sorry I did not make it clear. It would prevent cell phone images being transmitted.

STEVEN: Yes.

ADV PRETORIUS SC: Is that correct?

STEVEN: That is correct. That is correct.

ADV PRETORIUS SC: Did this event or series of events particularly the use of the jamming device in Parliament to block cell phone transmissions raise concern amongst the public and particularly the South African National Editor's Forum?

STEVEN: That is correct. Not only the SANAF I think South Africans as a whole were not happy with what
10 happened on that day.

ADV PRETORIUS SC: Alright. What did SANAF do? You deal with that in paragraph 22.

STEVEN: SANAF is the – SANAF is the organ – is the organisation that represents journalists. I think it represents editors. That is where they are feeling dumb. I would like to think that it is the board that represents them in the affairs that may affect journalism or journalists as it were.

ADV PRETORIUS SC: Right what did they do? Did they
20 react to the series of events?

STEVEN: Yes they did they filed – they actually challenged this issue at court in Cape Town meaning they challenged the State Security that we – we did something that was untoward and we did not have a mandate to place such a device in the chamber. So we were challenged.

ADV PRETORIUS SC: Yes.

STEVEN: In other words we were being sued.

ADV PRETORIUS SC: In paragraph 21 you say that the basis of the South African National Editor's Forum challenge was an assertion that the public had a right to know what was happening in Parliament and the...

STEVEN: That is correct.

ADV PRETORIUS SC: The jamming device interfered with the exercise of that right.

10 **STEVEN:** That is correct.

ADV PRETORIUS SC: Another issue you say – is that correct?

STEVEN: That is correct.

ADV PRETORIUS SC: You say in paragraph 21 another issue was that television viewers of the Parliamentary broadcast were deprived of the right to see visuals of the EFF MP's being ejected from the chamber as the camera remained focussed on the Speaker of Parliament and the Chairperson of the National Council of Provinces. Is that
20 correct?

STEVEN: That is correct Sir.

ADV PRETORIUS SC: Right. So what happened then consequent to the launching by SANAF of legal proceedings after the 12th of February 2015 in relation to yourself.

STEVEN: (Inaudible)

ADV PRETORIUS SC: Paragraph 23.

STEVEN: After that there was an outcry – after the jamming then Minister Mahlobo instructed me to meet with him at his official residence in Tshwane. I did go to his house. I was in the company of my colleague who was assisting me in terms of moving me from point A to point B. We arrived at Minister Mahlobo’s residence. I entered the house alone. I found him inside the house but at the gate – maybe let me first describe what the situation was like at
10 the official residence of Mr Mahlobo.

Every time I am requested to or instructed to come to Mr Mahlobo’s house – Minister Mahlobo’s house his protectors would be outside the residence at the gate to usher me in because inside the yard there would have been police who are securing the official residence. I would not be made to sign any document in terms of indicating my presence in the official residence. I would walk straight into the house.

As you get into the house you would turn right. On
20 the right side of the house that is where this meeting – the meeting that I had with Mr Mahlobo took place. It is a lounge. I think that lounge is basically meant for these meetings because every time I go there that would be the space we sit for discussions.

That is what happened on that day when I was called

after the journey.

ADV PRETORIUS SC: Where is this residence?

STEVEN: So it must have been a week –

ADV PRETORIUS SC: I am sorry.

STEVEN: The residence is in – the residence is in Pretoria.

ADV PRETORIUS SC: Okay.

STEVEN: Next to Waterkloof.

ADV PRETORIUS SC: Right if you would go on please;
what happened?

10 **STEVEN:** Then whoever entered the house Mr Mahlobo
said to me hey Boetie – Boetie is brother I will talk in Zulu
but I will translate. (Speaking in vernacular). Meaning he
is going to connect me to is – to use a colloquial language
Tsotsi's. These Tsotsi's are judges. So I was anxious that
okay for a first time I would be able to talk to people of that
calibre – judges.

20 So after we had our own small talk the two
gentlemen were ushered into the house. There was a black
guy and a white guy who looked a bit older. I think he must
have been in his 50's – late 50's and a black guy shorter I
think not that – very tall. He must be what 1.65 in terms of
height. So – and very dark without spectacles. The white
judge also did – or the person who was introduced as a
judge – white judge did not have spectacles but the white
guy was a bit nervous whereas the black person who was

introduced as Mgwenya [?] Mr Mgwenya. I cannot remember the white judge's name or the person who Mahlobo said is a judge – the white one as well as this guy – the black guy. The black guy I remember because he said he is Mgwenya.

What made me to remember the name even now is because when you look at this person who was introduced as Mgwenya he does not look like a person who have come from KwaZulu Natal or Eastern Cape or Mpumalanga
10 because Nguni people would have certain features as a South African I would be able to distinguish that. But this person Mgwenya seems to be a person who may have come from Bushbuckridge or Limpopo Province. That is why I could remember the surname.

But I was not convinced that this person is Mgwenya. It must have been a code name given to me by Minister Mahlobo. Then after...

ADV PRETORIUS SC: Sorry before you go on.

CHAIRPERSON: Ja maybe before you ask the next
20 question Mr Pretorius can you let me ask this. Stephen you gave a translation for (speaking in vernacular) as my Tsotsi's. I think that translation is not necessarily inaccurate but do you also agree that can be translated as criminals?

STEVEN: Yes, yes it can be that if you broaden the

translation Chairperson.

CHAIRPERSON: Yes. And maybe you might be able to say this – to say something about this. Would it be true that sometimes in the township people use that term for people that – they have some admiration for – they use it in a positive sense even though it is a bad term because if you are a (speaking in vernacular) it means you are involved in crime. Is that your experience or is that something you do not know?

10 **STEVEN:** For me coming from a township as well if I say (speaking in vernacular) nickname mean it is my friend.

CHAIRPERSON: Yes.

STEVEN: And they mean there is people that we do things together.

CHAIRPERSON: Ja.

STEVEN: And are comfortable with them.

CHAIRPERSON: Ja no I think I ...

STEVEN: That is what I would think.

20 **CHAIRPERSON:** Ja I think you are right. Sometimes it is used in a positive sense by the person who is using the term but it is normal meaning is that of somebody involved in crime. Is that right?

STEVEN: Yes, yes.

CHAIRPERSON: Yes. Okay no that is fine. I just wanted to make sure whether you have that experience of

understanding it is in that way. Mr Pretorius you may proceed.

ADV PRETORIUS SC: Can you tell Stephen from the manner in which the term was used and the context within which it was used what meaning the term had for Mr Mahlobo?

STEVEN: I would like to believe that the term was used in the context of what these two gentlemen were going to do for us because Mr Mahlobo said we are in trouble we would
10 need to find a way to win this case against us in – on what transpired in Cape Town as we are being challenged by SANAF.

ADV PRETORIUS SC: Alright let us go back again.

STEVEN: So he then went on to say

ADV PRETORIUS SC: I am sorry I would like to...

STEVEN: I missed that.

ADV PRETORIUS SC: I did not want to interrupt you but I wanted to take you back to paragraph 25.

CHAIRPERSON: Before you do that Mr Pretorius I just
20 once – want to go back to the term just so that I know whether Stephen understands it in the same way I understand it. Now Stephen you have said that you – you live in the township or you have lived in the township. You know the use of the term Inja in the township?

STEVEN: Yes Chairperson.

CHAIRPERSON: Inja is the same.

STEVEN: (inaudible)

CHAIRPERSON: Ja Inja is a dog is it not and ordinarily nobody would like to be called a dog is it not?

STEVEN: Yes, yes.

CHAIRPERSON: But in the township can it be used in a certain positive way among certain people?

STEVEN: You can only use it to people that you are comfortable with.

10 **CHAIRPERSON:** Yes.

STEVEN: Because a dog cannot be associated with a person.

CHAIRPERSON: And..

STEVEN: So the context is correct.

CHAIRPERSON: Yes. And when it is used the people who are referred to as my dog Injayane they would also not take offence would they?

STEVEN: No they would not.

CHAIRPERSON: Yes.

20 **STEVEN:** They would not take offence.

CHAIRPERSON: Yes. Okay alright. Continue Mr Pretorius.

ADV PRETORIUS SC: Well perhaps just finally for clarity Stephen in case it becomes a matter of dispute later when referring to the two persons present in the manner he did. Do you think Mr Mahlobo was intending to insult them or

address them in a friendly collegial way?

STEVEN: I think the – it was more the collegial way than insulting them.

ADV PRETORIUS SC: Right. If I may take you ...

STEVEN: But my view was that the white (inaudible)

ADV PRETORIUS SC: I am sorry.

STEVEN: Yes. No I was saying he – the white guys did not seem to be comfortable he was a bit jittery.

ADV PRETORIUS SC: Right.

10 **STEVEN:** Whereas the black person Mgwenya was more relaxed.

ADV PRETORIUS SC: Right. Let us go back to before the two men arrived in the lounge. When you arrived in the lounge as I understand it you were alone with Minister Mahlobo, is that correct?

STEVEN: That is correct – that is correct.

ADV PRETORIUS SC: If you go back to paragraph 25 because we have left out some of your evidence. Did Minister Mahlobo explain to you what the purpose of your
20 visit to him was?

STEVEN: On the phone he did not. I only got to know when I was in the house.

ADV PRETORIUS SC: What did he tell you?

STEVEN: That the purpose was really – the purpose was to discuss what transpired in Parliament and to deal with the

legal challenge because we needed to get this thing managed through the help of lawyers. That is what I got to know when I was in the house. But when I was still on the road I did not know why I was being called.

ADV PRETORIUS SC: Right in paragraph 26 you talk about your relationship with Minister Mahlobo and what you knew of his activities. What – what did you know?

STEVEN: I enjoyed a very cordial relationship with Minister Mahlobo.

10 1. Because of the position that I occupied in my acting capacity. I was managing operational work of the agency meaning collection work. I would not want to go into details.

And I would be requested from time to time to assist with operational work especially when there were challenges in the country. What comes to mind is that during the elections I think it was in 20 – local government elections there were problems in Tshwane and then we were asked to prepare a presentation to brief Lithulu House as to
20 what was the problems Were we going to have a safe – or safer elections so I would prepare such presentations together with our analysis at headquarters.

Then he would then say he wants me to accompany him so that I can do the presentation. So I would do those presentations of course there were – they would have been

sanctioned by SSA.

On certain occasions he would say to me hey you must come to my house when I am in Parliament – in Cape Town. When I get to the house I would not really why I am being invited to the house at such general talk things that are not even operational.

So that was the type of cordial relationship I had with the Minister Mahlobo. On occasion when there would be something that he wants to be checked maybe there is
 10 somebody whose phone is being taken by a criminal he would say hey Boetie can you assist to locate the phone? Boetie is a brother. He used to call me Boetie can you locate – help locate the phone because this phone is [indistinct – word cut] So I would then work with the service provider to assist us to check where the phone is and then – he would then use that information, maybe to ask the police to assist whoever might have lost the phone. So, I would be working with Minister Mahlobo on some of those issues.

20 **ADV PRETORIUS SC:** Apart from those specific incidents. Did you ever come to learn of Mr Mahlobo's activities or conduct in relation to operations?

STEVEN: Yes, yes. I came to know about them. I would cite one example but there are many. If the Commissioner allows me, I will go to two or three. One. We visited a

place called Eersterus. The President was going to have to engage with the communities there because there were complaints or grievances from communities ...[intervenes]

CHAIRPERSON: You said Eersterus?

STEVEN: One of the visits was... Yes.

CHAIRPERSON: I am sorry. Did you say Eersterus?

Eersterus, yes. Yes, Chairperson.

CHAIRPERSON: Okay alright.

STEVEN: So when I got there – when the communities
10 were complaining about the government not building them
RDP Houses since they have been there. There are no
RDP Houses. Amongst other complaints, was that
Eersterus is invested with drug dealing and they even knew
the houses where drugs would be.

So the police were not doing anything about that. So I sat next to Minister Mahlobo in a marquee. He then said: Hey, *buthi*. I can see that you guys, you try but I do not seem to get a feeling that you know exactly what I want. That is why I am now handling this operation by
20 myself because you are not giving me what I want.

When we were talking like that, I then said to him: Minister Mahlobo, I think you must cease to involve yourself in operations because you will get into trouble. Ministers must confine themselves to their role which is executive oversight because if you are part of us who are

doing this work and there is a challenge one day, who is going to be a referee?

He said: No, no, no. I was grade(?). I got a training for three weeks. Or something like that. I said: No, three weeks are not enough in Intelligence. You need at least ten years to begin to know basics. Ten years would just give you the basics. But if you have been around and you have been working for more than ten years, then you begin to develop a sense of what this work
10 is all about.

And then after that, he then said: Hey, buthi. After the meeting in Eersterus. He said: I needed to pay one somebody but talk to my Head of Ministerial services and give him an amount of R 4000,00. And I said: What is this for? Is there a record that you are paying somebody so that I can then put a claim against that asset? The answer was that: No, no. This matter will be managed by my Holmes(?).

We went back to HQ to do what the Minister
20 instructed we do – we must do. I then said to Holmes, Head of Ministerial Services: Do you want some kind of coverage as we drop off this money to your asset? And the answer was yes. I think asked my colleagues, who are in surveillance, to monitor the space where the drop off was going to happen. Nothing happened. There was no one.

I called this person – to Holmes to say: What happened? Because we were there. We never saw any movement. Where did you drop this thing? He just laughed at me. That was one.

The second one. Minister Mahlobo instructed myself and the now Provincial Commissioner, General Molwena(?) about an alert that there was going to be somebody who would have come from the neighbouring states and that person was in Zeerust in a hotel. They
10 were coming to sabotage Pelindaba(?). And it was a Friday afternoon.

We went to see Minister Mahlobo at his residence. When we left, we then said to ourselves, because this was mine. Chairperson, ...[indistinct] I was his courtship(?). We needed to bring in a defence because we can leave and alert without testing the veracity of the information and the only to test that veracity of information would have to be operationalise the alert.

Then on my side, I was then saying: Okay I will
20 deploy surveillance. We deployed surveillance. Molwena said: I will deploy the police to conduct roadblocks in and around that space of Pelindaba. The minute we said we would deploy our forces inside – now we deployed all these forces for a period of two weeks. There was nothing.

I called Minister Mahlobo because we discussed

with General Molwena that maybe we should see the – this asset that gave this alert to Minister Mahlobo. Minister Mahlobo said: No, no. Did I not know what he reported has already happened at Pelindaba? I said: What would have happened? He said: What I reported that there will be a sabotage happening.

So I said: No, but it cannot be. We have been here throughout with our forces, taking them from their homes on a Friday, working for two weeks, deploying huge
10 amounts of resources, putting petrol, putting – giving them substance allowance because they are in an operational work, for nothing.

Then I called Frank because Frank knew about this... I asked Frank: Who is this asset? Because we would like to have an engagement with the asset to determine exactly where this thing is coming from. Frank said: No, no. This thing – this asset belongs to the Minister. He the forwarded me in a rural area with kids around ...[intervenes]

20 **CHAIRPERSON**: I am sorry.

STEVEN: [Indistinct] [Break in transmission]

CHAIRPERSON: I am sorry, Steven. We did not hear you for a few seconds after you said you spoke to Frank. So we missed out something. You want to go back to that part?

STEVEN: Okay. I spoke to Frank. Then Frank laughed at it. He said: No, this asset – this information came from Minister Mahlobo. It is not his. It is not one of his assets. He then forwarded me a photo of an old man who was surrounded by kids. I asked: Where is this old man based? He just laughed. He said: This is the person who gave the alert to Minister Mahlobo that something was going to happen at Pelindaba.

But part of what he was also saying is that I
10 must prepare an amount of three million to pay this particular person. That is why we decided to launch a full-scale verification process of this alert.

And the answer was nought. It was zero. There was nothing. No thread whatsoever at Pelindaba. So there are two examples that I want the Commission to know, the extent to which Minister Mahlobo was so close to operational work.

ADV PRETORIUS SC: Right.

STEVEN: The third one. We were discussing
20 ...[intervenes]

CHAIRPERSON: Just before the ...[intervenes]

STEVEN: [Indistinct] ...[intervenes]

CHAIRPERSON: Just before the third one. Just before the third one, Steven. Just for the benefit of the public. The name of Frank you are using is a pseudonym name. Is

that correct.

STEVEN: Yes. Yes, Chairperson.

CHAIRPERSON: Ja, okay.

COUNSEL: Chair?

CHAIRPERSON: H'm?

COUNSEL: Sorry. Good morning again.

CHAIRPERSON: Good morning.

COUNSEL: As you will know that I present the witness,
Mr Mahlobo and the other witness... Chair, I listened to
10 this evidence and I would choose or from the witness to
say he is using examples. And I must place it on record
that whatever examples in his testimony so far to these
transactions and whatever, not contained anywhere in the
documents including his affidavit.

CHAIRPERSON: Oh, yes.

COUNSEL: Thank you.

CHAIRPERSON: Ja, okay alright. Thank you.

COUNSEL: And just for the record. We are hearing for
the first time. So let me ...[intervenes]

20 **CHAIRPERSON**: Yes.

COUNSEL: ...we all follow and ...[intervenes]

CHAIRPERSON: Okay. No, thanks for that.

ADV PRETORIUS SC: I have not stopped the witness. It
is quite correct. This is not in the statement.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: But generally ...[intervenes]

CHAIRPERSON: It is an elaboration.

ADV PRETORIUS SC: Yes, it is an elaboration of something said there.

CHAIRPERSON: H'm.

ADV PRETORIUS SC: A general statement made that Minister Mahlobo spoke openly to me about operations he ran but I do not want to – I just want to place on record, which I was going to do in any event Chair, is that anything
10 that still needs to be put to Minister Mahlobo will be ...[intervenes]

CHAIRPERSON: Would be.

ADV PRETORIUS SC: ...subject to the written process of question and answer ...[intervenes]

CHAIRPERSON: Ja.

ADV PRETORIUS SC: ...in due course.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: So he will have a full opportunity to respond.

20 **CHAIRPERSON:** To deal with it, ja. No, that is fine.

COUNSEL: Thank you, Chair.

CHAIRPERSON: Thank you. You may then proceed, Steven.

STEVEN: The third one, which I think those colleagues who were working with me as General Managers, meaning

Chief Directors because I was acting DG at that time. There was another operation that was run by Mr Thulani Dlomo. How we got to know about this operation is through a capacity that we have at HQ. This capacity supports operations, light operations.

If we, for instance, conduct a surveillance operations, they will be able to say this number plat is wrong because they are linked to the ...[indistinct]. So they gave us the heads up that you are being investigated
10 as a collective by Mr Thulani Dlomo. And the name of that operation was called Project Greenleaf.

In the document that was shared with us as General Managers and myself and General Managers, there were names of people. Our names as officials were there. The name of the President was there. The name of Mr Paul Mashatile was there, Minister of Basic Education, amongst others. The list is endless.

There were also names of generals from the army, generals in the police. We then confronted the DG,
20 DG Kudjoe. I think at that time, DG Kudjoe was supposed to be travelling outside the country. We requested an urgent meeting. She returned. She cancelled the trip. She came back to HQ because this was more like a revolt by senior members of the SSA.

We conveyed at her boardroom. When we

convened, she called Minister Mahlobo that there is a problem here. There is an operation that is directed at my officers, senior officers and we are raising serious objection. Do you know about it? Minister Mahlobo said: No, I will be coming to HQ.

When he came to HQ, we were already convert in a boardroom and Ms Kudjoe was there. We then asked a question because now it was a meeting where Minister Mahlobo was present. We said to DG Kudjoe:
10 DG, did you approve this type of an operation against us?

DG Kudjoe's response was a big no. I did not approve of any operations against members, let alone senior politicians in the country and members of the army and the police. Then one member, a general manager, said: If DG it is not you who approved this operation, then it could only be Minister Mahlobo because Mr Dlomo, his junior, to approve an operation that includes senior people.

That is not the protocol of how we do work in the agency. Then Minister Mahlobo starting losing his cool.
20 He said to us: Who do we think we are? But also targeting the person who was raising a question. I would not mention the name of the member because he is still – others who retired last year.

Other colleagues who retired last year but they know this. He then instructed us, Minister Mahlobo, that

we must launch an investigation to check as to who authorised this thing, this operation called Project Greenleaf, two general managers who were appointed to investigate. The source of information was interviewed.

The person who signed that form which went to that structure that I spoke about earlier on, we support operation, was interviewed. She denied that she got an instruction to work on this operation on Project Greenleaf but she was, basically, saying: You know who I report to. I
10 do not know who approved it but you know who I report to. I do not report to myself.

A report was written for Minister Mahlobo and that was the end of the problem. We never got to know why were being investigated. So I am trying to show the extent to which Minister Mahlobo was involving himself in operational work.

ADV PRETORIUS SC: Alright.

STEVEN: Thank you. Thank you, advocate.

ADV PRETORIUS SC: Alright. If we could go back then
20 to paragraph 27 and back to the meeting that took place at the then Minister's residence in Pretoria. Let us go back to the point at which the – you said two men arrived and joined yourself and Minister Mahlobo in the lounge.

STEVEN: Yes.

ADV PRETORIUS SC: Describe the two persons, as you

have described in paragraph 28? Did a conversation then take place?

STEVEN: Yes.

ADV PRETORIUS SC: What was – between whom did the conversation take place?

STEVEN: [Indistinct]...[intervenes]

CHAIRPERSON: Did he cover that, Mr Pretorius? What is in paragraph 28, did he not cover that already? You remember he spoke about the – even the ...[intervenes]

10 **CHAIRPERSON**: Yes, paragraph 28 has been covered. I am on paragraph 29. Yes.

CHAIRPERSON: Ja, okay. I thought you said 28, ja. And then maybe, Mr Pretorius. Remember to just ask him to indicate timeframes about the Eersterus visit, for example.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: Just to ...[intervenes]

CHAIRPERSON: The incidents that you have reflected on and told the Chair about the three incidents. The first incident, when did that take place?

20 **STEVEN**: The Eersterus one? It was just before the local government elections on ...[intervenes]

CHAIRPERSON: In 2016?

STEVEN: ...the first one – it was 2016, yes. The second one is the Pelindaba. That was around 2017 because soon after that, the former DG left, resigned from the agency. It

was in 2017. It must have been around June 2017. The – including the one, the Project Greenleaf was around 2017.

ADV PRETORIUS SC: Alright. When did Minister Mahlobo seized to hold office for sometime in 2017, was it not?

STEVEN: Around September I think. September/October, there.

ADV PRETORIUS SC: Alright. If we could go then to paragraph 29. Does that cover the issues, Chair?

10 **CHAIRPERSON**: Yes, that is covered, ja.

ADV PRETORIUS SC: Please go to paragraph 29 and deal with the conversation that took place as you set out in that paragraph.

STEVEN: Yes. The meeting was about the discussion following what transpired in Parliament and our role in respect to the equipment that was used there and the challenge by SANEF(?). So the – during the discussion, Minister Mahlobo said: Now that you guys are here in Gauteng and the matter will be presided on – or will be
20 heard in Cape Town. How is it going to be arranged?

It looks like they were saying: No, no, no. It should not be a problem. They would know how to handle it so that we get the outcome that is desirable to SSA. And desirable to SSA would have been that we must win the case, I guess, because I do not think we would get the

lawyers so that we get into jail.

Now after that, my view was that, maybe when I was – he instructed me that I should make plans to travel to Cape Town so that I must then deal with these issues.

ADV PRETORIUS SC: Sorry, before you go on.

STEVEN: ...assisted by Sibob(?).

ADV PRETORIUS SC: Can you please ...[intervenes]

STEVEN: Yes.

ADV PRETORIUS SC: ...did it not strike you as odd or
10 strange that two judges in Gauteng would be asked to
influence two judges in Cape Town? That seems to be a
rather extraordinary proposition.

STEVEN: It was. It was a bit strange because – but I
thought – because I have never been in a court of law
where I would have to deal with these issues on my own
other than when I appeared before the TRC. That was a
different matter. Now on this one, I thought, because this
judges are in Gauteng, maybe one of them would travel to
Cape Town so that as I talk to these issues because my
20 engagement with the senior counsel in Cape Town was to
talk about the technicalities of this device.

What it can do, what it cannot do and why did we
take the decision as – to place the device there. So I had
to explain all those things. But to my surprise, when I was
in Cape Town, I did not see the faces that I have met at

Minister Mahlobo. However, we won the first round in Cape Town. The verdict favoured us. There was one dissenting judge. The matter was then referred to the appellate division.

ADV PRETORIUS SC: Yes, we know ...[intervenes]

STEVEN: [Indistinct] ...[intervenes]

ADV PRETORIUS SC: We know of the litigation. We need not to go there for the moment.

CHAIRPERSON: Okay. Mr Pretorius, let us take the tea
10 adjournment.

ADV PRETORIUS SC: Right.

CHAIRPERSON: As it is quarter past.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: And then we will come back at half-past. We will take the tea adjournment, Steven. We will come back at half-past eleven. We adjourn.

STEVEN: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Thank you, let us proceed.

ADV PRETORIUS SC: Thank you, Chair. Steven, you were about to tell the Chair of the conversation that occurred between the two persons who joined the meeting between yourself and Minister Mahlobo. You deal with that in paragraph 29. Could you tell the Chair please of the

detail of that conversation?

STEVEN: Thank you, Advocate. Maybe before I deal with that let me just correct the timelines. What I spoke to I think it was in 2015, late 2015/2016. Not 2017.

ADV PRETORIUS SC: Which incident was that?

STEVEN: In terms of the – the three incidents that I was talking to. They happened in 2015/2016, not '17.

ADV PRETORIUS SC: Alright, thank you. Let us go back then to paragraph 29.

10 **STEVEN:** Yes, Sir. What happened there, was we were discussing there is the issue about jamming and how they would have to help given that the matter is not going to be in Gauteng, it will be in Cape Town. The person who was introduced to me, this other guy, the white judge, seemed a bit uneasy whereas the black guy, Ngwenya, was saying no, no, no, they will do it, they will use their contracts in Cape Town and all these things but I did not know who those contacts were because in my mind I thought in one or the other we will see one of these guys called judges
20 who are going to talk to us in Cape Town, but I did not see either of them, I only interacted with senior counsels. There were two senior counsels in Cape Town.

ADV PRETORIUS SC: Right, you have dealt with the ...[intervenes]

STEVEN: And after...

ADV PRETORIUS SC: I am sorry, go on, please?

STEVEN: Then after that I was released, I left Mr Mahlobo and the two gentlemen. I left, I was released.

ADV PRETORIUS SC: Alright, before we go on to the next issue, may I just ask, do you know or did you know at the time that these two persons who joined the meeting were actually judges?

STEVEN: Well, I knew when Mahlobo told me when I was in the house. I did not know beforehand as I was driving to
10 the house that I was going to discuss judges. [inaudible – speaking simultaneously]

ADV PRETORIUS SC: Yes but other than what Mr Mahlobo told you, did you of your own knowledge know them to be judges?

STEVEN: No, no, I did not know them because I really did not pay attention to that seeing that they are not even people that ordinarily we would do business with. We do not vet them. If we were vetting judges, I would have known then.

20 **ADV PRETORIUS SC:** Right.

STEVEN: In this instance I did not know them.

ADV PRETORIUS SC: And since that meeting have you ever through your recollection of having seen these two gentlemen, have you ever been able to identify them to your knowledge as judges?

STEVEN: I would not be able to say I have seen them. What happened is that in 2018, when Jafta was appointing Acting, he called me to his office to discuss this matter. He then showed me photos of all the judges in the republic. I was not able to say with certainty this is the person that I think I met in the house. It is even worse with the white judge, I could not recall his basic features but the black judge was dark, without spectacles, shortish a bit, 1.65 in terms of his height. That is all I could
10 remember.

ADV PRETORIUS SC: Alright.

STEVEN: In any case, I did not think at the time when I was discussing this matter regarding the matter we were seized with in parliament that at some point I would be required to recall these faces because we are trained as spooks to memorise but in this instance I think I failed.

ADV PRETORIUS SC: Right. Is it correct then that after this meeting you travelled to Cape Town on instructions and assisted in briefing counsel in relation to the aspects
20 relating to the jamming device.

STEVEN: That is correct.

ADV PRETORIUS SC: Right. We do not need to deal with the SONA litigation it is a matter of public record but if we could go to paragraph 48 please on page 310.

STEVEN: Yes, Sir, I am there.

ADV PRETORIUS SC: Would you just deal with the matters that you testified to in paragraphs 48 and following?

STEVEN: That is correct.

ADV PRETORIUS SC: Tell the Chair about that.

STEVEN: Yes, in terms of that paragraph, yes, Director Langa, when he came to join the SSA I was already acting in the position of a DDG, meaning that I was the only person that he could rely on as he was appointed, recently
10 appointed. So for a number of days that would have required him to deal with alone he would call me and say I am new here, tell me how do I manage this one, how do I deal with this issue? He had been presented with a green form, I think the Commission has heard a number of witnesses talking about the green form so he was given a green form. This green form was requiring him to sign for an amount of 12 million. He then asked me whether he must sign. I said no, you cannot sign, ask for a document that details as to what is this thing that you are paying for,
20 that document must say this is a project, if it is a project or if it is an asset, this is an asset, this is what the asset is doing and it warrants that type of a payment but ordinarily we do not pay such amounts of money as an organisation. It was an anomaly in my view so said no, be extra careful, do not do it. He then went on – I think on leave or trip, I

was acting in his position. So I acted twice. This 12 million requisition came to me that I must sign, I refused. I said I am not signing ...[intervenes]

CHAIRPERSON: One second, Steven, I am sorry Steven, just one second? Mr Pretorius, I do not want to adjourn and talk in chambers, can we do what they do in other jurisdictions, can you approach?

ADV PRETORIUS SC: The bench?

CHAIRPERSON: Okay.

10 **ADV PRETORIUS SC:** Thank you, Chair. Steven, just a note please. In relation to yourself at any particular time, if you could not mention your – the office that you held or the position that you held and in relation to others too, do not mention what positions they held so that we can stick to the identity rules, if we may. Okay?

STEVEN: Thank you, thank you.

ADV PRETORIUS SC: Alright, so tell us about this R12 million.

20 **STEVEN:** So this 12 million, then the requisition came to me, I refused to sign because the incumbent was not around. I waited for him to come, I submitted this thing, the requisition of 12 million. I think he succumbed to pressure, he signed for this 12 million. After signing this 12 million he then said to me, you know, I saw this money being loaded in paper bags by Frank and he took it to the

former Minister. After that he was worried. I said to him do not sign anything that involves such huge amounts of money.

ADV PRETORIUS SC: Did you speak to Frank about this issue?

STEVEN: Yes, yes, I did, I did.

ADV PRETORIUS SC: What did you ...[intervenes]

STEVEN: But I think even numbers that I spoke to him, all he could say is that Minister Mahlobo took 4 million out of
10 this for his project, the rest I think Frank managed, I do not know what they did about it.

ADV PRETORIUS SC: What was the purpose of the 4 million being taken from the 12 million. I would not know, Advocate, I would not know but there were projects, Mayibuye 1, Mayibuye 2, Project Justice. I suppose the money could have been for those projects because I came to know about those projects when Minister Mahlobo came to see the former director to push that we must send giving the money for this projects because he is running projects,
20 we cannot be sitting with money. At that time Special Ops had depleted its budget so I happened to know those project in that context otherwise I would not have known about them because of the need to know.

ADV PRETORIUS SC: Alright in paragraphs 48 and 50 you do mention the specific purpose of the delivery of the

monies but I take it you are not going to place that evidence on record now.

STEVEN: Yes.

ADV PRETORIUS SC: Right is that because it is not correct, what is stated in the affidavit?

STEVEN: No, no, it is correct, it is correct, it is not because it is not correct, I thought it is a given that Frank took money and I also spoke to Frank in my capacity that I would not [inaudible – speaking simultaneously]

10 **ADV PRETORIUS SC:** And the money was taken to whom?

STEVEN: To Mahlobo, two paper backs.

ADV PRETORIUS SC: Right and the purpose ...[intervenes]

STEVEN: According to Frank.

ADV PRETORIUS SC: So the purpose of the money was related to – or the purpose for which the money was delivered and taken as stated in paragraphs 48 and 50 is what you were told. You do not know directly, is that
20 correct?

STEVEN: Yes, I was told by my former boss.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: When was this? When did this happen?

STEVEN: It must be around 2016, early 2016.

CHAIRPERSON: Early 2016?

STEVEN: That is correct, Sir.

CHAIRPERSON: Okay, alright. Mr Pretorius?

ADV PRETORIUS SC: Yes so, for example, in paragraph 51 you say in the affidavit:

“Mr Frank told me that he regularly transported cash to Minister Mahlobo and was sometimes accompany by Dorothy.”

I must just say to you that Dorothy denies that.

STEVEN: Well, I am not surprised because from what I
10 have seen from the Commission is that it has become a normal to deny everything, so I would not be surprised.

ADV PRETORIUS SC: Alright.

STEVEN: That Dorothy would deny it.

ADV PRETORIUS SC: And do you persist in the evidence that you give in the first sentence of paragraph 51 as to what Frank told you?

STEVEN: Yes, I do.

CHAIRPERSON: And just to make sure, that sentence says Frank informed you that he had delivered the R12
20 million cash to Minister Mahlobo.

STEVEN: That is correct, Sir.

CHAIRPERSON: Yes, okay.

ADV PRETORIUS SC: Let us deal with the next issue then and that is the issue of the establishment of a trade union to rival AMCU. Did you attend a meeting as set out

in paragraph 53 on page 311?

STEVEN: Yes, I did, I did attend this meeting.

ADV PRETORIUS SC: Do not mention any names please but ...[intervenes]

STEVEN: No, I will not.

ADV PRETORIUS SC: Pursuant to that meeting were you ever given an instruction by Minister Mahlobo?

STEVEN: Yes.

ADV PRETORIUS SC: What was that instruction?

10 **STEVEN:** The instruction was that there is a problem and this person must be paid because if we do not pay this person the former President's involvement in this project would have been exposed and the issue was that the asset had even taped that meeting so there was proof that this meeting – that involved the former President did actually take place. So the issue was that in order for this person not to go to court he must be paid the amount of money to silence him.

ADV PRETORIUS SC: Was that ...[intervenes]

20 **STEVEN:** Minister Mahlobo then said...

ADV PRETORIUS SC: I am sorry, in paragraph 54 the meeting apparently discussed the fact that...

STEVEN: Oh, okay.

ADV PRETORIUS SC: That a particular person had been kidnapped and threatened and needed money to deal with

his security.

STEVEN: No, no, sorry, I am mixing the two, I thought we were now on the issue of the other one.

ADV PRETORIUS SC: Alright, let us deal with ...[intervenes]

STEVEN: This one is true, the person ...[intervenes]

ADV PRETORIUS SC: Let us deal with the incident – I am sorry to interrupt you, let us deal with paragraph 54 first.

STEVEN: Okay, yes, because I was dealing with
10 paragraph 54 instead of paragraph 53.

ADV PRETORIUS SC: Yes.

STEVEN: But let me first say on 53 it is correct, this thing that is – the paragraph, that is on 53, is correct. I paid this person 120 000 every month for his protection but I became concerned because we are audited, serious audited by internal audit, by the IG and the AG. I then asked what am I going to say when the auditors are coming to me to ask about these amounts of money that I am paying because I do not have any record except the details
20 of this person and the signature where he signs for these amounts. Then I then said can I do some checks if this person indeed his life is under threat? He agreed. I then did what we call counter-surveillance. It is not following the person but it is to check whether this person that we are giving money is being followed by others. There was

nothing. This person would drive to a mall, stay in his house, no problem. So I then report to Mr Mahlobo that I am not going to be able to continue paying because from what I got as a report from my colleagues who did the task, there is no problem here, so I stopped, but after having paid what Mr Mahlobo said I should do. In any case, I reported these issues to my former DG.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: How long did you pay this person if you
10 able to remember?

STEVEN: Chairperson, I am sure I can get those – I am sure I can – but it was not once, it was a number of times but I am sure I can get those records.

CHAIRPERSON: Okay, alright. Mr Pretorius?

ADV PRETORIUS SC: Right, you spoke of a second meeting with Minister Mahlobo which is dealt with in paragraph 57. What happened at that meeting?

STEVEN: At this meeting - I think I spoke to some of the issues earlier on that it is a project that was run by Special
20 Ops and it had gone wrong because this asset started demanding huge amounts of money and if they were not prepared to pay those amounts of money, he threatened to go to court and expose the operation but also to expose the fact that at some point he was personally sitting in a meeting involving the former President to discuss this

matter. So the issue was that – from Mr Mahlobo, manage this issue so that it does not go to court, pay this person. My problem with that was that but why executive members playing a role in operations because if you plan an operation you also plan how you are going to wind it down. So this was a classical example of an operation that is poorly planned. He said I must pay this person 6 million. I said I cannot pay this 6 million because your MPDs do not allow me to do this thing, I cannot pay for that amount, I
10 have no authority to pay such a lot of money. I refused in carrying his instruction but I was subsequently informed that this person, asset was paid some monies, huge amounts of monies.

ADV PRETORIUS SC: Alright. You deal in paragraph 62 and following with a third security contract. I do not want to necessarily deal with that now, it is on record, but you confirm the facts set out in paragraph 62 to 67. Are they correct?

STEVEN: They are correct, Sir.

20 **ADV PRETORIUS SC:** Right. What happened in September 2016?

STEVEN: September 2016 we were called to the Minister's office, all senior members of the agency were called then, especially the domestic side but there were some from foreign side. We were then introduced to the

new DG, Mr Arthur Fraser, that this was going to be our new DG. Then Mr Arthur Fraser immediately embarked on a process which he termed realignment process. That realignment process he also said he has got a vision or a vision was developed for 2035.

Immediately when that process of coming up with a vision was being developed, an organogram was also being created that talks to this vision. The first people to be victims of this vision, 2035, was the Director Domestic
10 Branch because the Director Foreign Branch had already indicated that he was leaving the agency. I think the reasons are better known to him but he was uncomfortable with the arrangement especially following the appointment of Mr Fraser.

Then the Director Domestic Branch was removed from his position through an organogram that you can see when it was presented that you do not have a box anymore in the Domestic Branch, so eventually he was forced to leave.

20 **ADV PRETORIUS SC:** What happened ...[intervenes]

STEVEN: He kept on coming to work, he kept on coming to work.

ADV PRETORIUS SC: What happened in regard to yourself?

STEVEN: To who?

ADV PRETORIUS SC: To you?

STEVEN: To me? I will come to that.

ADV PRETORIUS SC: Alright.

STEVEN: I want to give a picture so that the Commission must see what really happened there.

CHAIRPERSON: Okay.

STEVEN: Then the director is moved, his office is flooded – one day he gets to his office, the whole office is flooded with water, he cannot come in. He then calls me to say
10 hey man, come and see my office is flooded, the whole carpet is soaked. We then check whether maybe the problem with the bathroom because their offices have bathrooms. There was no sign of any leakage of water from the bathroom. So clearly somebody came to put water into his office. Then he said to me it means I am no longer wanted here, I must work from home. That was the last time he sat, it is for HQ.

Following that, the next person that was to be removed was myself after worked in that position of acting
20 for two and a half years. This happens within a period of a week. The second week, all these are happening that I am just explaining.

Then as this project begins to take shape, all general managers are told that he is going to work with those general managers who are fit for purpose but he

does not explain what the purpose is, there is no study that is conducted to say if you fail to do the following you are not fit for this particular purpose.

He then appoints junior members who are three levels below our levels to occupy our offices. In my case I was left even without an office, I had to come to HQ for a period of two and a half years without being given any work, being called or telephoned. Others were told that they would be advisers and that position does not exist in
10 the agency, it never existed, it only existed in the offices of the ministers and that position of advisers is regulated by ministerial directives.

In my case I questioned that are you chancing my conditions of service because I do not know what you are talking about, I have been here since '95, we never had this thing. So I was then left in the cold for two years whilst getting my salary, getting a bonus, my cell phone was fully paid for, everything that you can think of which comes as perks and this applied to all other GMS, general
20 managers, during Mr Fraser's reign.

This project that he had was never even approved by JSCI and yet it was implemented and whilst it was implemented, certain DDGs were appointed under the auspices of this project which was not sanctioned by JSCI. We kept on asking where is the approval of this thing that

has been implemented? There was nothing. Thank you, Advocate.

ADV PRETORIUS SC: Yes, what happened in April 2018?

STEVEN: In April 2018 Mr Fraser then gets moved to Correctional Services and then – no, no, I think it was in March when we got to know that he was being moved. Then I was called to come back but not to Domestic Branch, to go Foreign site by ...[intervenes]

ADV PRETORIUS SC: Well, do not mention the...

10 **CHAIRPERSON:** No, no. Initially I was called by DDG Foreign Branch to come and help her because she was not coping. This vision 2035 had killed Foreign Branch from being a branch into a Chief Directorate without proper funding. So they were not coping because the world did not shrink when the Foreign Branch was shrunk. They had to contend with the world as we know it with limited capacity. So I was called to come back. I then asked the DDG that if you call me to come and work, where is the report that says now I am fit for purpose because I am still
20 waiting for the report that I am not fit for purpose. Then when Mr Jafta was appointed, I was also called back. I came back this time because Mr Jafta had nothing to do with the fitness for purpose. He then asked me to go and work in Foreign Branch to assist because there were challenges. I worked there up until I was brought back to

the Domestic site again.

ADV PRETORIUS SC: Thank you. Former Minister Mahlobo is aware of the evidence that you have given by way of notice and otherwise and it has been put to him in his own evidence and he used the term in respect of you, a peddler, an information peddler. What is your response?

STEVEN: Thank you, Advocate, maybe let me explain or give a definition of what we understand as peddlers or a peddler or peddling. A peddler is somebody who
10 purposefully gives wrong information about something. Let me make an example. At some point there was an information that SSA or NIA then had to deal with. The information was coming from some person in Mpumalanga who said the current President and Mr Tokyo Sexwale were planning – I think even [indistinct], they were planning a coup against the administration of President Mbeki. We worked on that only to find out there is nothing like that but that information can only be confirmed by him alone, no other source could confirm that information. So a peddler
20 is somebody who cooks information but the objective is to get money but also to sow confusion. A peddler would not be in the agency as I know it, as a person who would be working in this organisation since '95. Even in my previous years as a member of the Intelligence of the ANC we knew peddlers to be people who are outside our ranks who would

come to us to sow confusion. That is how I understand the definition of a peddler, but if Minister Mahlobo was saying members of the Agency can at times be surrounded by peddlers maybe that would make sense, but in my case I would not be surrounded by pedlars, because the position I occupy in the organisation does not allow me to handle sources. I only deal with the directing of the work that needs to be done, at the time when I was doing operational work.

10 That is the understanding I have, so to call me a pedlar would be something that is frowned upon in the profession and the pedlar we classify them, work on them and we blacklist them, we don't want to do anything with pedlars, in fact they are a nightmare to any intelligence officer because you then follow the shadows based on what they give you as alert. I think I alluded to something earlier on about...[indistinct], that was a pedlar who gave us that information because we could not confirm it but there is no pedlar inside the ...[indistinct], there is nothing,
20 thank you.

ADV PRETORIUS SC: Steven, the accusation that you are a pedlar was based, amongst other things, on Mr Mahlobo's denial of the meeting that took place between the two persons whom he referred to as Judges and yourself at the former Minister's home. As I understand his

version, you made the whole thing up, what is your response to that?

STEVEN: I would not lie about the Minister and in my history of working in this environment, firstly, in the movement, I never was a liar. In the history of the Intelligence since 1995, I worked in various capacities there has never been an accusation directed at me that I'm a liar. I have briefed senior people in the country, including presidents, give them briefings. I have briefed Parliament
10 even with the current Minister on several occasions. Why would I target Minister Mahlobo only on this one of the Judges and it confirms the other issues in terms of these projects that he instructed me to...[indistinct] he does not have a problem with that, I'm not a pedlar when I talk about that. I only become a pedlar when I talk about the Judges. Well, my guess would be as good as the guess of those members of the public who are watching the proceedings, thank you.

ADV PRETORIUS SC: It was somewhat difficult to follow,
20 the answers to questions, put to former Minister Mahlobo in relation to why you would invent, in its totality, the story about the persons whom he said were Judges but as I understand it, in summary he suggested that you might be part of a faction within state security that sought to create problems or discredit him and others, what is your

response to that?

STEVEN: I know that is plausible enough for a person of Minister Mahlobo's calibre to say, I'm a faction. I am not a card carrying member of any political organisation. Yes, in the past I used to be a member of the ANC but when we amalgamated in 1995 Minister Nkiantla said he does not think it's a good idea that we must be card carrying members because we are not going to be impartial. So, from then on, I never took part in any political work of the
10 ANC. So, why would be a faction because factions would only exist in a political organisation. In the agents there are lots of possible as new Ministers gets appointed those people who...[indistinct] who seek to be promoted because in a situation that we have, where – especially during Minister Mahlobo's time, there was no one who was appointed to a permanent position. Even if you were appointed when it came you were told that you are now acting in your own substantive position. So, that situation created a state of flux where people were not sure and it
20 then brings this behaviour where people will then go and drink tea about people's name. In my case, I am not a member of any faction. Yes, there are a lot of issues in the agents, a moral issue, appointments that are not done correctly in some instances without adhering to the policies and that breeds contempt amongst members but that does

not make one to be a faction and if you raise issues that are correct and you raise them on the basis of policies and principle and regulations then you are classified as a faction. Maybe that is what he meant, but I'm not a faction, thank you.

ADV PRETORIUS SC: He also referred, that is former Minister Mahlobo, also referred to an investigation when pressed in questions about you being known to him to be a pedlar and being asked, well, what was done about it? Are
10 you aware of any investigation that took place within the SSA in regard to whether you reported false information?

STEVEN: If I knew I would have said it to the Commission. I've said, since 1995 I've worked in various capacities in the agents, domestic, foreign even abroad, I've never been investigated, even now as I'm sitting here, I've never been investigated, nothing. Now to be told that, hey, there's a suspicion about you, that you have done the following thing, never. I was hearing it for the first time yesterday on TV.

20 **ADV PRETORIUS SC:** So, do I understand your evidence you have never been warned about peddling false information, you are not aware of any investigation conducted in relation to the peddling of false information and I suppose it follows that no inquiry ever, has taken place in that regard?

STEVEN: Nothing at all, nothing not even under Mr Fraser, nothing.

ADV PRETORIUS SC: Bear with me a moment, Chair. Thank you Chair.

CHAIRPERSON: Thank you very much Steven for availing yourself, you are now excused.

STEVEN: Thank you Chairperson.

ADV PRETORIUS SC: Thank you Steven.

STEVEN: Chairperson, may I say something, if I'm
10 allowed?

CHAIRPERSON: Yes.

STEVEN: Chairperson, I would want the Commission to seriously, as they conclude this process, that this agency can only work if the President exercise his prerogative to take political control of the agency because in my 26 years of being part of this agency, Ministers who get appointed, they come with their political agenda and they cause a lot of problems in the agency.

CHAIRPERSON: H'm.

20 **STEVEN:** And I don't think that is helpful for the taxpayers who are paying us the salaries to do nothing to protect them as well as the Constitution. So, my view and my appeal is that maybe we must not have a Minister for some time until all our problems are sorted but the high level panel recommendations have never been

implemented, this is the third year I guess and nothing has moved in that regard and if there is a process that process does not involve members or senior members of the organisation, if it exists somehow.

CHAIRPERSON: Yes.

STEVEN: Those things, I think, they need to be done to ensure that we are back to our glory days, thank you Chairperson.

CHAIRPERSON: Yes, thank you very much Steven I've
10 heard you, thank you very much. Thank you and then Mr Pretorius...[intervenes].

UNKNOWN COUNSEL: Sorry, before my learned colleague proceeds, Chair if you have, obviously, the document or the affidavit deposed by this witness and we've agreed that there was some elaborations.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: Taking cue of that, there were considerations last night.

CHAIRPERSON: Yes.

20 **UNKNOWN COUNSEL:** That we will be furnished with questions from the Chair, I would want to think that will also form part of this questionnaire and will be sent to us, this elaboration by this witness.

CHAIRPERSON: Yes, the transcript certainly the parts that constituted or the elaboration should be given and Mr

Pretorius will take care of that, maybe it will be more than that part but that would be taken care of.

UNKNOWN COUNSEL: Thank you Chair.

ADV PRETORIUS SC: Two things will be done Chair, the transcript of these proceedings will be made available to all parties implicated by additional evidence or elaborating evidence and secondly questions will, in addition to that, be put but Minister Mahlobo certainly – Deputy Minister Mahlobo certainly will be invited to make whatever
10 comment he wishes quite apart from the questions that he's been asked.

UNKNOWN COUNSEL: Thank you Chair, thank you to my colleague.

ADV PRETORIUS SC: Chair, just to set-up, may we take a five minute adjournment please?

CHAIRPERSON: Okay, we'll adjourn for five minutes.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV PRETORIUS SC: Frank are you present, can you
20 hear us?

FRANK: Very good afternoon, I am present. Thank you so much.

CHAIRPERSON: Good afternoon Frank.

FRANK: Good afternoon Chair.

CHAIRPERSON: Thank you once again for availing

yourself to assist the Commission. We appreciate it very much.

FRANK: Thank you very much Chairperson.

CHAIRPERSON: Yes the oath was administered to you earlier this morning, so Mr Pretorius can continue.

ADV PRETORIUS SC: Right Frank ...

FRANK: Thank you.

ADV PRETORIUS SC: Before you should be a file containing various documents, including documents behind
10 the folder YY16. You have that in front of you?

FRANK: Let me just compare that. YY16, yes I do have.

ADV PRETORIUS SC: Okay. There are a number of documents that I will ask be admitted, including an affidavit which we will deal with now. But if you could go Frank to page 1146.1 towards the end of that divider.

CHAIRPERSON: And forget to admit Steven's affidavit.

ADV PRETORIUS SC: Ja, going to do that now.

CHAIRPERSON: Ja, okay.

ADV PRETORIUS SC: So are you at YY16 and at page
20 1146.1?

FRANK: Let me check. You are saying yes on 1116.

ADV PRETORIUS SC: No, no.

FRANK: And page?

ADV PRETORIUS SC: 1146. 1-1-4-6.

FRANK: Oh 1146. Okay hold on we will get it there just

now. Definitely I am there sir.

ADV PRETORIUS SC: 1146.1. Is that your affidavit?
Been identified by your attorney already?

FRANK: [Indistinct], yes it is.

ADV PRETORIUS SC: Right, if you would go to page
1146.34.

FRANK: 46. 1146?

ADV PRETORIUS SC: 1146.34.

FRANK: 1146.34 *né*.

10 **ADV PRETORIUS SC:** You got that.

FRANK: No, I am getting there. 1146.34. Definitely, yes.

ADV PRETORIUS SC: That signature has been redacted,
but do you recall signing this affidavit?

FRANK: I recall definitely.

ADV PRETORIUS SC: And as far as you are concerned,
and to the best of your knowledge are the contents of this
affidavit true and correct?

FRANK: Yes sir.

20 **ADV PRETORIUS SC:** Chair, may that then be admitted as
EXHIBIT YY16.1?

CHAIRPERSON: The affidavit of Frank which starts at
page 1146.1 will be admitted and marked as EXHIBIT YY –
what is the number?

ADV PRETORIUS SC: 16.1

CHAIRPERSON: 16.1. Ja. Mr Pretorius I do not want to

forget this.

ADV PRETORIUS SC: Oh.

CHAIRPERSON: Okay, thank you.

ADV PRETORIUS SC: Frank is it correct and I am now going to page 836 of EXHIBIT YY16, that on the 19th of January a request for ...

FRANK: Hold on sir, do not – you are saying YY?

ADV PRETORIUS SC: Page 836. I am only going to refer now to the page numbers in the top left hand column, the
10 black page numbers.

FRANK: Okay page?

ADV PRETORIUS SC: Top left hand corner, page 836.

FRANK: [Indistinct], same mark you gave me?

ADV PRETORIUS SC: Yeah, no, no, not the affidavit.

FRANK: Oh okay.

ADV PRETORIUS SC: Page ...

FRANK: 800 ...

ADV PRETORIUS SC: And 36.

FRANK: 836. Hold on for me quick. 836. 836. Yes.

20 **ADV PRETORIUS SC:** On the 19th of January 2021 ...

FRANK: Yes.

ADV PRETORIUS SC: The Commission sent to you are request for an affidavit. Correct?

FRANK: Yes.

ADV PRETORIUS SC: And that was followed up by a letter

dated the 9th of February 2021 on page 841.

FRANK: 841. Yes sir, I recognise that.

ADV PRETORIUS SC: And Ms Jabulani Lavuno and Advocate Sam Ngiba were they your representatives at the time, 9th February 2021?

FRANK: Yes. Yes.

ADV PRETORIUS SC: Okay. Contents of those letters are self-explanatory. And I do not want to deal with them in any detail. Is it correct that on the 6th of November 2019
10 an interview was conducted internally with an SSA as part of the Veza investigation?

CHAIRPERSON: Is it Veza?

ADV PRETORIUS SC: Veza.

FRANK: Are you making ...[indistinct]), are you making ...[indistinct] turn the page?

ADV PRETORIUS SC: Yes, page 845.

FRANK: Yes sir.

ADV PRETORIUS SC: That is a transcript that was provided to us by the SSA and do you confirm that you
20 were indeed interviewed on that date?

FRANK: May confirm that I have been interviewed on that day, however I also want to place it on record that this transcript before me I saw it for the first time a year after when served to me by the Commission. So it was never shared to me as an affected party by the investigators.

Only to say or suffice to say I see this transcript for the first time as provided by the Commission.

ADV PRETORIUS SC: Yes. All I want to put to you at this stage is the fact that you were interviewed. I will put passages to you and can comment on whether those passages accord with your own memory of what happened in that investigation. So you will have a chance to comment. But when you say it was not shared with you by the investigators, you are referring to the SSA
10 investigators, is that correct?

FRANK: Yes. Yes. Yes.

ADV PRETORIUS SC: Alright. If you could go to page 861 please.

FRANK: Yes sir.

ADV PRETORIUS SC: As part of the project being referred to there, to your knowledge who were the persons who received protection under the rubric of the project there being discussed? First of all what project was discussed at page 861? And then who were the persons being
20 protected?

FRANK: [Indistinct], can you repeat that for me sir?

ADV PRETORIUS SC: If you look at page 861.

FRANK: Yes.

ADV PRETORIUS SC: During the course of the interview it appears from this transcript that you were being asked

questions about a particular project. You see that?

FRANK: Yes, I see.

ADV PRETORIUS SC: Two thirds down the road or down the page rather, two thirds down the page a project is mentioned, what project is that?

FRANK: Project Construção.

ADV PRETORIUS SC: Alright, Project Construção. Now as part of Project Construção who received VIP protection?

FRANK: In reference to this page were Dudu Myeni and
10 Colin Maynier, Maynier.

ADV PRETORIUS SC: At the time who was Colin Maynier, what office did he hold?

FRANK: He was the president of the ANC youth league.

ADV PRETORIUS SC: Youth league?

FRANK: Yes.

ADV PRETORIUS SC: And was there a third person who received protection?

FRANK: Still on this page. Yes.

ADV PRETORIUS SC: Who was that?

20 **FRANK**: And the deputy, the deputy president. The then deputy president Desmond Muela.

ADV PRETORIUS SC: Of the ANC youth league?

FRANK: Yes.

ADV PRETORIUS SC: Right. And you say just above the passage where you mentioned Project Construção,:

“I will tell you why I know for sure because the protection of these people fell squarely on projects I was running.”

Is that a correct statement?

FRANK: Can you read? Where does that follow?

ADV PRETORIUS SC: Alright it is two thirds down the page 861.

FRANK: Yes I can see that. I can see that.

ADV PRETORIUS SC: Next to the word in red Frank.

10 **FRANK**: Yes.

ADV PRETORIUS SC: It reads:

“I will ...”

FRANK: I see that. [Indistinct].

ADV PRETORIUS SC: Is that correct? Is that correct?

FRANK: It is correct. Correct.

ADV PRETORIUS SC: Right. And then in page – sorry. And then on page 860 you refer to co-workers. Or co-workers are referred to in the transcript. Do you see that?

FRANK: No, I am trying to look at it, specifically, what?

20 Where? Yes sir.

ADV PRETORIUS SC: Were co-workers employed or pointed to conduct operations such as Project Construção?

FRANK: Can I, can I clarify?

ADV PRETORIUS SC: Yes please.

FRANK: I think there is a, there is a misconstrued idea

here. Co-workers did not fall under ...[indistinct] Project Mr ...[indistinct]. Co-workers was another, it was a team of other employees operative within the EDSO. It did not fall within my spec, my ...

ADV PRETORIUS SC: But do you have a mask on?

FRANK: Yes I do.

ADV PRETORIUS SC: Won't you take it off please and make sure that nobody is near you? So that I am having difficulty in hearing your words.

10 **FRANK:** Alright then.

ADV PRETORIUS SC: Thank you. Explain who were co-workers.

FRANK: Co-workers was a set of other employees attached to CDS chief directorate. Special operations, but they did not fall within my area of work. So that part of the transcript it's not correct.

ADV PRETORIUS SC: Well are you saying you did not say that? That part of the transcript?

20 **FRANK:** Yes. Yes it might have been misunderstood. The co-worker specifically part of it.

ADV PRETORIUS SC: Well next to the word Frank, one third down the way, page 860 it says, now I like that part:

“One of the things I did was primarily, one we had a letter that we wrote to DG Kudjoe at that time to say, look based on the fact that we are working in

this environment with these people, we request a waiver of advertisement and adsorption of these people so that they can be taken for necessary training within the environment which is our environment here, although most of them would come from a foreign country.”

Is that incorrect?

FRANK: Let me have a look at it quickly. I am not sure the construction of the word of the paragraph as it ends,
10 they come from a foreign country. I am not sure what it was meant there. But I remember that part of the discussion.

ADV PRETORIUS SC: Right. Did you say that apart from the fact that they came from a foreign country?

FRANK: Yes we had a discussion around that.

ADV PRETORIUS SC: Right. And further down that page, mention is made of the fact that at least some of these co-workers were relatives of people involved in SSA. You see that?

20 **FRANK**: Where is that sir? Can you direct me please?

ADV PRETORIUS SC: Well you say two thirds down the page of page 860:

“Let us not say these people. Most of these people were relatives of Thulani. I just want to say it bluntly. They were relatives of Thulani you were

asked. Frank, yes.”

Did you say that?

FRANK: No.

ADV PRETORIUS SC: No?

FRANK: It’s misconstrued here.

ADV PRETORIUS SC: But what was misconstrued? It is just a recording of what was said.

FRANK: I mean ...

ADV PRETORIUS SC: No one is construing anything. It is
10 just a recording of what was said, so all that I think that I am asking you is, did you say this or did you not say this?

FRANK: No, I did not say. Let me leave it at that.

ADV PRETORIUS SC: So someone must have inserted this in this transcript, is that what you are suggesting?

FRANK: I am not suggesting that. I was, I was actually saying the wording there, it might have been but as far as my recollection is concerned.

CHAIRPERSON: Could it be, would it make a difference Frank if the position is that in the conversation you
20 specified the country from where you believe they came. And what is confusing you now is that, in the place of the name of the country it is simply written a foreign country. Is that what maybe confuses you?

FRANK: No, no, no.

CHAIRPERSON: It’s not that?

FRANK: Not at all Chair. Not ...[indistinct] if you say, if you say they came from a foreign country, the insinuation was that these were not South African citizens.

CHAIRPERSON: Yes.

FRANK: The discussion there was making reference to say they were trained outside a foreign country. That was the discussion, as far as I can recall.

CHAIRPERSON: Would, is it possible that what you said was that most of the people were trained from a foreign
10 country and maybe whoever transcribed thought you were saying they came ...

FRANK: Yes.

CHAIRPERSON: From a foreign country?

FRANK: Yes.

CHAIRPERSON: Is it possible that ...

FRANK: Exactly that.

CHAIRPERSON: Ja, you ...

FRANK: Exactly Chairperson.

CHAIRPERSON: You may have said they were trained ...

20 **FRANK:** [Indistinct].

CHAIRPERSON: You may have said they were trained from a foreign country, not that they were coming from ...

FRANK: Yes. So there is an omission.

CHAIRPERSON: Okay.

FRANK: So there is an omission there.

CHAIRPERSON: Yes. Okay.

ADV PRETORIUS SC: But further down the page the statement appears on that page and it reads:

“Let us not say these people, most of these people were relatives of Thulani, I just want to say it bluntly.”

You asked according to the transcript, at least they were relatives of Thulani. Frank, yes. I have difficulty in understanding how a statement could be misconstrued in
10 this regard. It seems pretty clear, but perhaps you can explain. Perhaps you did not say it at all and someone else inserted this, so surreptitiously or perhaps it is ...

FRANK: Ja.

ADV PRETORIUS SC: A incorrect record of what you did say.

FRANK: Chair, in the same context that I was trying to correct there, that that paragraph with the foreign country, I want to make reference even to this paragraph there. The discussion was to say there were also relatives of
20 Thulani.

ADV PRETORIUS SC: Alright. Who were employed as co-workers?

FRANK: Yes, they were. So ...[indistinct] I do not know, but I say there were.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: Unless if, if most were relatives of Thulani, would that indicate in any way whether they were South Africans or people from another country or would it not?

FRANK: Chairperson can you repeat yourself?

CHAIRPERSON: If most were relatives of I think he has just referred to as Thulani, if they ...

FRANK: Yes.

CHAIRPERSON: If most were relatives of Thulani, would
10 that indicate whether those who were relatives of Thulani were South Africans or were from another country?

FRANK: I am not there Chairperson, but ...

CHAIRPERSON: You are not sure.

FRANK: But ...[indistinct] it would be, it would – let me say I am not sure what does the name but ...

CHAIRPERSON: Okay.

FRANK: To me it will be misleading information.

CHAIRPERSON: Okay, alright.

ADV PRETORIUS SC: Yes. If we could go to page 892
20 please.

FRANK: Yes sir.

ADV PRETORIUS SC: And I want to first ask you about what appears on this page, the bottom one third of the page. It is recorded here at least that you were asked:

“You were chosen again to do wave.”

That is W-A-V-E. You are recorded as having said, what wave. The answer is, the project, to run Project Wave. And you are recorded as having saying, having said:

“No, no, no I just wrote it, I wrote it.”

And then you were asked who wrote the operational plan, the answer is:

“I wrote it ma’am.”

The question is why and then the answer is:

10 “I was asked to do so.”

What was Project Wave? Well firstly did this exchange take place to the best of your recollection?

FRANK: I may not remember the exact wording but I remember it could have fallen(?) amongst the things that we had discussed in that particular interview.

ADV PRETORIUS SC: Alright. Did you write the operational plan for Project Wave?

FRANK: Let me put it clearly, that is why I am saying some of the words do – I just put it on paper, the
20 conceptualising, conceptualising of it, it was as per the estimate at the time and in a brief discussion which I was also present with other members. Was given to me and then I was asked to put the whole thing into pen, pen and paper.

ADV PRETORIUS SC: What was the purpose of Project

Wave?

FRANK: I may not be able to give a exactly detail, the exact detail of the project, but it was one of the counter intelligence measures that were, were meant to be put in place. Specifically or initially to assist in counter – intelligence operations ...[indistinct] of the country.

ADV PRETORIUS SC: Alright, there was no spec of the project that we will deal with later. We do not need to take that any further for the present. You could go with me to –
10 if you would bare with me Chair because I am trying to up-down ...

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Given time constraints.

CHAIRPERSON: Ja, that is fine. Maybe during lunch you, you could check with Mr Meyberg, his evening witness from what I recall did not appear in ...[indistinct] somebody who would take very long. And therefore maybe the 3 o'clock cut off point might not be strictly adhered to for your purposes.

20 **ADV PRETORIUS SC:** I should ...[indistinct] adjournment.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: If you could go to page 898 please. Again two thirds ...

CHAIRPERSON: Now let us ...

ADV PRETORIUS SC: Two thirds down the page.

FRANK: [Indistinct].

ADV PRETORIUS SC: Page 898.

FRANK: Yes sir, I am there.

ADV PRETORIUS SC: It says next to the word Frank:

10 “There were no people at that time at Wave. The
 only time I started paying Wave ma’am it is when
 this team were, was that came in to be trained by
 Media. I think they were paid for about five months
 if I am not mistaken for the entire duration. At one
 point you see it is a pity. At one point I know there
 was a problem where Thulani wanted R20 million on
 Wave to be paid.”

 And then later on a few lines down, Frank:

 “I do not know what it is, but all I know there was
 money at one point and Thulani wanted R20 million. He
 was ...[indistinct] at nothing.”

CHAIRPERSON: [Indistinct]. That is R20 million.

ADV PRETORIUS SC: R20 million, yes.

20 “He was stopping at nothing that Lilly must make it
 available because I was close to ...”

 Then that sentence ends there. But I wanted to ask
 you was this matter discussed during this interview.

FRANK: There was a discussion definitely yes.

ADV PRETORIUS SC: Do you know what the purpose of
 the request for R20 million in relation to the execution of

Project Wave was? Or?

FRANK: Chairperson can I put it on record, that at that particular time or at that particular phase of the project I was not involved there, so I will not know.

ADV PRETORIUS SC: Alright. Page 901.

FRANK: Yes.

ADV PRETORIUS SC: Two thirds down the page. You see that? Next to the word, Frank:

10 “Ma’am I do not know, I do not know, I do not know.
Really I do not know. These are instructions that
come. This is what has to be done, do that.
Everyone knows that we are drawing this money,
even the money that goes to the minister for
example was going cash.”

You are asked:

“Why was it going to the minister?”

Frank:

“I do not know.”

You were asked:

20 “Who was giving an instruction that money had to
be given to the minister?

Your answer, or Frank answers:

“It was him and Thulani. Remember there were two
projects that were running from the minister’s
office.”

Question:

“Which are?”

Frank:

“It is not project it was operations. One of them it was Lock(?). Yes.”

And then there is a discussion about Lock. Did this discussion take place?

FRANK: I could say it would have taken place. However I need to put it to context. [Indistinct] writing that. It says
10 the minister. And I had not, at no given stage in my ...[indistinct] to the minister. I think the reference was made to the ministry. I think I need to put that on record.

ADV PRETORIUS SC: Yes. Well to your knowledge what is the difference between the minister and the ministry?

FRANK: The minister could be the person himself. The ministry could be an office in which we were dealing with officials in that office.

ADV PRETORIUS SC: Right. Did you as part ...

FRANK: [Indistinct] perhaps elaborate. Sorry.

20 **ADV PRETORIUS SC**: I am sorry.

FRANK: Perhaps at a later stage you clarify that entire thing with that office.

ADV PRETORIUS SC: Yes. We will deal with that later when we get to your affidavit Frank.

FRANK: Yes.

ADV PRETORIUS SC: But for the moment do I understand your evidence to be that you told the investigators in the Veza investigation that money was being taken to the ministry. Is that correct?

FRANK: Ministry, yes that is correct.

ADV PRETORIUS SC: Is that a correct statement, a fact you were obviously telling them the truth?

FRANK: I am telling them the truth, correct sir.

ADV PRETORIUS SC: Is it correct then that money for the
10 execution of SSA Project was according to your evidence taken to the ministry?

FRANK: Yes, yes sir.

CHAIRPERSON: Was that something that you had personal knowledge of or was it something that you had heard about?

FRANK: I am saying in as far as I am concerned the monies that I was taking through to ministry was delivered by an official. I have never taken money personally to Minister Mahlaba. I am talking in relation to me, myself.

20 **CHAIRPERSON:** Oh, you were talking about occasions when you, personally have taken money to the Ministry, that's what you are talking about?

FRANK: Correct.

CHAIRPERSON: Alright okay.

ADV PRETORIUS SC: On page 902 in the third line you

say,

“No, it was not always me ma’am or it is recorded that you said, no it is not always me ma’am so I would deliver this money to the office”,

Is that the office of the Ministry, is that correct?

FRANK: Yes, correct.

ADV PRETORIUS SC: Now, when you delivered money to the office or to the Ministry to whom did you deliver the money?

10 **FRANK:** To the officials referred to in my affidavit, J and B.

ADV PRETORIUS SC: J is that Jay?

FRANK: No, no, I’m not sure how it is written in these documents...[indistinct].

ADV PRETORIUS SC: What officials, what office did they hold?

FRANK: In the Ministry.

CHAIRPERSON: Hang on one second Frank, the names you are using for the record, when you said J that’s a
20 pseudonym is that right?

FRANK: Yes, correct Chairperson.

CHAIRPERSON: Okay, alright. Mr Pretorius you may have thought about it, I was just asking about the positions they held but they might not be operatives.

ADV PRETORIUS SC: Well, they – that’s what I wanted to

get to.

CHAIRPERSON: Yes, ja okay.

ADV PRETORIUS SC: Were these persons members of the SSA or operatives?

FRANK: Yes, one of those was a member – I mean, was yes because he's no longer – was a member of SSA and ...[indistinct] operative yes.

ADV PRETORIUS SC: In the office of the Ministry?

FRANK: Yes.

10 **ADV PRETORIUS SC:** And the other one?

FRANK: Was an official in the office.

ADV PRETORIUS SC: Just an employee at the office of the Ministry is that correct, not a SSA member or operative?

FRANK: Yes.

ADV PRETORIUS SC: What was his name?

FRANK: [Inaudible audio distorted].

ADV PRETORIUS SC: I'm sorry.

20 **FRANK:** I may not be able to disclose that, but he was a member of SSA but not an operative.

ADV PRETORIUS SC: Alright, is that the second person?

FRANK: Yes.

CHAIRPERSON: I'm sorry, Frank, just to clarify the distinction. When reference is made to a member of the SSA, is that different from an employee or official of the

SSA?

FRANK: Chairperson, in this context, yes because we are making reference to operations so try distinguish what's that. One had capacity to be involved in operations, one did not have.

CHAIRPERSON: Okay, so if you – if you are the employee of the SSA who is also authorised or whose duties include being involved in operations you would be a member of the SSA but if you are an employee of SSA
10 whose duties do not include being involved in operations then you'll just be an employee or an official, but you are not a member, is that right?

FRANK: No, it's not right Chairperson.

CHAIRPERSON: Oh, what is right just explain it to me?

FRANK: What is right in terms of ...[inaudible – audio distorted] particular persons and trying to distinguish in relation to capacity of what would be, one with the capacity or two can be participating...[indistinct], would not be able to have a ...[indistinct] member because any person that is
20 an employee and there's an issue with the appointment ...[indistinct] is therefore, a member.

CHAIRPERSON: Oh, to be a member you have to be issued with a specific number?

FRANK: Have an appointment number, yes.

CHAIRPERSON: Oh, okay so those who have not been

issued with such a number would then be, just ordinary employees or officials.

FRANK: Of which I don't know any of – any of such person. [Indistinct] establishment is a ...[indistinct] regardless of his particular position or casting.

CHAIRPERSON: Oh okay.

FRANK: So, you'd not be in that...[inaudible – audio distorted] not a member.

CHAIRPERSON: You would not be at SSA unless you are
10 a member?

FRANK: Yes, whether at the Ministry or at OTC, unless you're a member.

CHAIRPERSON: Even if you are – no matter what your position is, you would be a member?

FRANK: Within those two establishments I'm referring to.

CHAIRPERSON: Ja that's what I'm talking about.

FRANK: Because there could be people who were part of the agents who are not...[indistinct] that is something else outside those two establishments I'm making reference to.

20 **CHAIRPERSON:** Okay, alright, Mr Pretorius?

ADV PRETORIUS SC: Yes, could I ask you to go to page 905 please.

FRANK: Yes.

ADV PRETORIUS SC: The first paragraph on that page, line three reads as follows,

“So, when that happened ma’am that’s how the Ministry took over the project. It went out of my hand, I know nothing about it, the subject was paid from the Minister’s office, I would draw the money under Ops Lock, deliver the money to them at the Ministry, they would sign for it, either two pseudonyms, Bokani or Jay, he would sign for the money they would go and deliver and bring back the certificate. They would take the money and I would
 10 take the certificate, I would settle like that. There was another project, for example, Ops Justice there was money being drawn, that money started as R1.3million up to R21.8million I used to draw that money”,

Did that discussion take place?

FRANK: Chairperson that discussion took place, however, I need to put certain things into context because I think the describer omitted that context part. This taking over by the Ministry was...[indistinct] saying after facing some
 20 challenges in this operation ...[indistinct] intervention by the Minister in which the Minister himself, then tasked these two officials to ...[indistinct] with operatives how best can these be dealt with and one of the agreed propositions with the officials was that the withdrawal of this money needs to be confirmed either in the office delivered to

them. They would then arrange a ...[indistinct] and upon that – and upon return from it would then receive certificate with a signature of the subject, which we had in our disposal as, what do you call, as an example, so we knew exactly how the subject would sign upon receiving this money and I would then collect that certificate for settling the...[indistinct], but I want, also to correct something, Chairperson.

CHAIRPERSON: Yes.

10 **FRANK:** It talks here about money that started at R1.3million...[indistinct] Ops Justice and that money went up to R21.8million, that's an incorrect affirmation of the statement.

CHAIRPERSON: Yes.

FRANK: The operation, when it started, it was allocated R1.3million and then at a later stage the operation was allocated R1.8million to ...[indistinct] for the operation. So, that R21.8million, it's wrong information...[intervenes].

CHAIRPERSON: What is the correct figure?

20 **FRANK:** R1.3million to R1.8million.

CHAIRPERSON: Oh okay.

FRANK: Not R21million I don't know anything about R21million, I've never drawn...[indistinct] of me ever drawing that R21million.

CHAIRPERSON: H'm.

ADV PRETORIUS SC: Ja, so apart from the figures and the context, and I'll come to the context now, is it – did this discussion take place as recorded here?

FRANK: Definitely it was recorded but...[indistinct].

ADV PRETORIUS SC: Yes, let's go back then to page 904, you do, in fairness deal with the context there.

FRANK: [Inaudible – audio distorted].

CHAIRPERSON: In the same Bundle.

FRANK: Yes, but I'm saying what part of that 904?

10 **CHAIRPERSON:** He will tell you just now.

FRANK: Oh, okay.

ADV PRETORIUS SC: 904, two thirds down the page.

FRANK: Okay.

ADV PRETORIUS SC: So, you were asked,

“Do you think and the name there is the subject of Operation Lock, has a relationship with the former President Zuma”.

FRANK: Hold on, hold on, where are we?

20 **ADV PRETORIUS SC:** Two thirds down the page, or three quarters down the page, 904.

FRANK: Okay...[indistinct].

ADV PRETORIUS SC: You there, Frank says,

“He didn't have but he had, did they meet, in answer to the question, do you think the subject has a relationship with the former President Zuma. I

think they met, because one thing that I intervened was him, at one point, wanting to go meet the President with Thando and I said but where is this man going to meet the President. Even with my discussion with the President I said, but baba he only said to me, now that I'm telling you what the President said to me, he said that this man, at one point was helpful to him especially when he was released. He helped him with some things but when

10 I went to ask him, but why do we have a relationship with this particular person, but why are we allowing and the question is, the President saw his value, that's the former President. Frank, at that time he said he had a point that's why they're working. Then I said in my intervention, I've got that report ma'am, I said even – I even said in my intervention, this is a problem that we are sitting with. We can no long, the Minister for example has promised this guy R3million”,

20 Did this discussion take place?

FRANK: Sir can I confirm that we had a discussion of that nature, however, the construction of that paragraph, ...[indistinct] the end, has been taken out of context. Perhaps I need to explain one thing sir, my involvement with this project or...[indistinct], was merely because there

were challenges...[indistinct] the Minister request me to conduct an investigation, together with some officials from the Department of Correctional Services and report back with my findings. So, this issue discussed here, it refers to that investigation in which, according to these officials, according to these officials there indicated the reason why the subject was placed under the care of SSA Special Ops, it was because he was helpful in conducting or revealing some information which was not revealed even through the

10 GRC or any other form for which did help the President in some decisions that he had to make and that they, themselves did a discussion with the President in that matter, it's not my discussion with the President. It's a discussion with...[indistinct] the officials of Correctional Service and their understanding, that was the reason why the subject was placed under our care. So, I wanted to clear – and ...[indistinct] it was not in accordance to words told to me by the Minister it's in accordance to information of the officials when I interacted with them. So, I could not

20 – I don't have the proof of that particular ...[indistinct].

ADV PRETORIUS SC: Alright so...[intervenes].

CHAIRPERSON: I think we should take lunch.

ADV PRETORIUS SC: I'm sorry I missed that Chair.

CHAIRPERSON: Ja, it's about seven minutes past one, we'll take the lunch break and resume at ten past two, we

adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES:

CHAIRPERSON: Okay, let us continue. Frank.

FRANK: Good afternoon.

CHAIRPERSON: Good afternoon. Let us continue, Mr Pretorius.

ADV PRETORIUS SC: Thank you, Chair. Hello, Frank, again. Frank, we are on page 905 of wire 16.

10 **FRANK:** 905?

ADV PRETORIUS SC: Yes, please.

FRANK: I am on page 905, sir.

ADV PRETORIUS SC: At the end of the first paragraph the following appears. There was another project for example Ops Justice, there was money being drawn and then there is a reference to figures which you have dealt with. I used to draw that money. The question is asked why. The answer that you give is deliver because it was an instruction and the question then is where did it go and the
20 answer is it would go to the Minister. Did that conversation take place?

FRANK: Yes, remember in the context that I have alluded to with that correction of the Ministry.

ADV PRETORIUS SC: So you say it should read the Ministry?

FRANK: Not Minister, yes.

ADV PRETORIUS SC: Now when you refer to the Ministry, I take it you are referring to officials within the Ministry rather than the building.

FRANK: Yes, yes, yes, yes.

ADV PRETORIUS SC: Correct. Now from all the knowledge that you had and the context that you have described, these officials, were they acting in their official capacity as officials of the Ministry?

10 **FRANK:** Yes, they were. Remember, they were part of the team that was asked to resolution – to rectify the actual [indistinct] that existed... [intervenes]

ADV PRETORIUS SC: Yes, but now we are talking about Justice now, huh?

FRANK: Yes, I am talking – remember, all those projects that are there or those operations, not projects, are as a result of the ministerial intervention.

ADV PRETORIUS SC: Okay, fine.

FRANK: So the money is combined for all ops, ja.

20 **ADV PRETORIUS SC:** And then it goes on to say for what purpose.

“Frank - they knew who they were dealing with. Remember that there was a point where Justice was complaining that...”

And then you correct yourself, you say:

“No, there was a complaint that the judges were colluding to overthrow the government, so an operation was established. So they said there is someone who is working closely to understand that. So this person was being paid this money to deliver this.”

Did that conversation take place?

FRANK: I can confirm.

ADV PRETORIUS SC: Right. So there was a project that
10 had something to do with judges and a person within the
Ministry was paid – being paid money to deliver that money
in execution of that project. Is that correct?

FRANK: May I correct something, Chair.

CHAIRPERSON: Yes.

FRANK: There was never a project. There was an
operation.

ADV PRETORIUS SC: Yes. I am sorry, that technical
distinction sometimes eludes me. An operation. But
otherwise my proposition, do you agree with it?

20 **FRANK:** Yes, that there was that conversation in and
around these operations and the officials would facilitate
that transactions [indistinct] distributions.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: I am sorry. Frank, just so that I
understand, are you able to... [intervenes]

FRANK: Chair.

CHAIRPERSON: Are you able to explain the distinction between a project and an operation publicly?

FRANK: Yes, I can.

CHAIRPERSON: Yes, please do that for my benefit.

FRANK: Yes. Remember a project, Chair, a project is established based on the national intelligence estimates which [indistinct] that is put forth. There is a [indistinct] of the planning, the costing and all those things,
10 né... [intervenes]

CHAIRPERSON: Yes.

FRANK: ...that results in the project with the [indistinct] and with a person who is allocated to run that particular project.

CHAIRPERSON: Ja.

FRANK: Now with the preparation if there is anything that arises within the context of evidence that needs to be taken care of, remember part of our work, every information that comes to us is valuable, as a result of
20 such part of it is that we need to put counter-intelligence measures in place to confirm or refute the existence of that particular threat. So this operation comes in the midst – in the middle of the project running, so we then accommodate within a particular project.

CHAIRPERSON: Alright.

FRANK: The operation arises because of a particular [indistinct].

CHAIRPERSON: Oh, so within a project there could be different operations. Is that right?

FRANK: Operations, exactly. Exactly, Chair.

CHAIRPERSON: Yes and there could be an operation that is not attached to a particular project or an operation must always be attached to a project?

FRANK: Because of the cost factors, né, we look at the
10 relevant projects that can be related to that particular threat. So I would [indistinct] within that context of a project [indistinct] which had its own purpose, then a local or a threat that arises it was well best to place it within that particular project.

CHAIRPERSON: Oh, okay. Thank you. Mr Pretorius.

FRANK: Yes. Yes, Chair.

CHAIRPERSON: Thank you very much.

ADV PRETORIUS SC: Let us go a little further down the page, the next paragraph.

20 “Frank - no it was meant to deal with the issues of the judge. Actually let me not confirm whether this person is a judge or not. I do not know. All I know is that I am delivering this money to the office to deal with the issue of the judges. That is the one thing I know.”

Did that conversation happen as stated there?

FRANK: Chairperson, it seems going forward in that particular statement it was a mixture of two factual issues looking at the figure that follows there. That particular issue deal with [indistinct] Operation Justice.

ADV PRETORIUS SC: Yes, so in so far as you were referring to Operation Justice, that conversation did happen?

FRANK: Yes, we did have a conversation around that
10 Project... [intervenues]

ADV PRETORIUS SC: Yes and what is said in the first three lines of that paragraph, that is correct from your point of view as I understand it?

FRANK: No, although it is not put into context, but it is in line with what I have explained around Operation Justice. I then meant to investigate, confirm or refute, yes.

ADV PRETORIUS SC: Yes and then the issue changes... [intervenues]

FRANK: So it is not well explained there.

20 **ADV PRETORIUS SC:** I am sorry, I interrupted you. What did you say?

FRANK: Yes, I am saying in that particular paragraph there is a reference of issues instead of putting into context what issue, what it was.

ADV PRETORIUS SC: Yes, so I am coming to that now.

FRANK: [Indistinct 00:08:42].

ADV PRETORIUS SC: Okay. I am only dealing in the questions to date or to this point with the first three lines as it deals with Operation Justice. Then you do change... [intervenes]

FRANK: Okay, sir.

ADV PRETORIUS SC: The topic does change. You say then there was another money, 2.5 million I think we used to take. They used to call this money Commitment. That
10 is another issue as I understand it. Commitment is another operation. Is that correct?

FRANK: Yes.

ADV PRETORIUS SC: Right.

FRANK: Yes, that is correct.

ADV PRETORIUS SC: And then you asked what was it for and the answer is recorded here as:

20 “This money was going to some operation. I do not know what operation it was, but I would take this money. Actually there was no money. We would not receive the money. We would get a call from the Minister forcing that this money must be available. I said but Minister, this money only comes out when we draw the entire money for the month. So if we cannot even draw money to pay people, where will we get this 2.5 million. Do you

understand? So I would draw this money and take it, so at the Ministry I would drop off R2.5 million, this 1.3 and this 200 000, I would drop these monies in the Ministry, take what is due for me to make the payments for the workers, that is it.”

Did that conversation take place?

FRANK: Chairperson, that conversation took place.

ADV PRETORIUS SC: Right. So you did get a call from the Minister saying that the money must be
10 made... [intervenues]

FRANK: Made available [indistinct] ... [intervenues]

ADV PRETORIUS SC: Sorry, let me finish the question please.

FRANK: No, no, no.

ADV PRETORIUS SC: Alright, you make your answer, I will then ask the question.

UNKNOWN MALE: Chair, I think there is a technical glitch. I do not think my learned colleague understood. It looks like there is a break in the technical. The witness
20 was still proceeding [indistinct].

CHAIRPERSON: Did you remember to take off your mask, Frank, after lunch?

FRANK: No, no, no, I am well placed, Chairperson. I am well placed. I am [indistinct].

CHAIRPERSON: Okay.

FRANK: It is just a technical – it is a technical issue.

ADV PRETORIUS SC: Yes, so I interrupted you. I am sorry. The technical issues are difficult. Give your answer and then I will ask my question.

FRANK: Yes. I wanted to confirm, but again I want to correct the [indistinct] because there is reference of the Minister and then the Minister again, so I want to put those things into context.

10 Firstly, remember we said these are ministerial intervention projects which then forced that all these particular monies and operations need to be coordinated with the officials in the office of the Minister. So that 2.5 fall squarely within those operations that are identified to the need to be there.

Now, there would be instances where there would be a complaint to the Minister. I do not know by whoever it is related to the project, because I am not privy to the project to say we have made the delivery late or not yet. So I would explain to the Minister, no, we have not done
20 the monthly withdrawal of funds with respect to all the other operations inclusive of our own which are not necessarily the ones within the Ministry for intervention.

So that paragraph there, it needed to establish and put that into context so it is understood that that call was not specifically because there was only people that the

Minister – no, no, no. The Ministry would call to say we are aware that there is this intervention in these particular operations and we have received a complaint, this has not taken place, what has happened. Then I would explain that.

ADV PRETORIUS SC: So I understand your evidence to be that even though there is a clear distinction in this text here between the Minister on the one hand and the Ministry on the other. The Minister having made the call
10 and the money being taken to the Ministry. You say that is wrong. It should be the Ministry in both.

FRANK: No, no, no, no. I am saying it is correct to say the Minister did call. Remember he is part of the people that is receiving this [indistinct] intervening, so he would call me to say what is happening because [indistinct] intervene in this matter.

ADV PRETORIUS SC: Alright.

FRANK: So what is happening. I am hearing that you have not complied or you have not delivered this particular
20 operation and I would explain the reason to say but, Minister, we have not done our monthly withdrawals or we still face the challenge of funds or we are still waiting, whatever the case.

ADV PRETORIUS SC: Alright. So what emerges from that is that this recordal here appears to be correct, firstly, and

secondly that the Minister knew about the monies being paid to the Ministry.

FRANK: He knew about the intervention by the Ministry and that it took [indistinct] officials for that. So he made to be understood by whoever was the recipient that that particular operation has not taken place. So that is what he meant there.

ADV PRETORIUS SC: Yes and he spoke to you personally about this as you say in this paragraph.

10 **FRANK:** Yes, sir.

ADV PRETORIUS SC: Alright. Thank you. The R2.5 million or the project referred to in relation to the R2.5 million appears later at the bottom of the page to be in regard to Commitment. Do you see that? It is a name we have heard before in evidence.

FRANK: Ja, let me put it on record, sir, that Commitment it is what was referred to because we were not privy to the operation. Nobody wanted to what you call [indistinct] the purpose, so we would always make that reference as the
20 Commitment, but remember there is this part of the commitment of monies that needs to go out. So it was not in relation to 2.5. It was in relation to all the commitments that we placed as part of [indistinct].

CHAIRPERSON: So is the position that sometimes you would use the word commitment to refer to undertakings or

promises or obligations that you had undertaken that sometimes you would use the word commitment to refer as a code for money?

FRANK: That [indistinct] the point, Chairperson.

CHAIRPERSON: Okay. Alright.

ADV PRETORIUS SC: The reception is not good. I have messaged or I have asked that the technicians be messaged on the other side to deal with the... [intervenes]

CHAIRPERSON: Yes, no that is... [intervenes]

10 **ADV PRETORIUS SC**: The connection is not good.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: But we will be patient.

CHAIRPERSON: His response to my question was that they sometimes use the word commitment to refer to undertakings or promises or obligations, but sometimes they used the word as a code for money.

ADV PRETORIUS SC: Alright. Well, whatever the case, we have heard the word commitment in another context, but that we can deal with in due course. What I want to
20 refer you to, please, Frank, is the top of page 906.

FRANK: Yes, sir.

ADV PRETORIUS SC: Kim says, in terms of where you thought the money was going, Frank is recorded as saying:

“They were actually saying the money was going towards the project of the President. That is what

they used to say, but I do not know where, which, who was receiving. You see, the one person who was also delivering this money was that boy who passed on.”

Right, well let us leave the quote ‘boy who passed on’ out for the moment. Did you hear from anyone that the money was going towards the project of the President and that would be the former President?

FRANK: If I can also put that into context. I think it was
10 the writing that you are not understanding. When we heard about these other commitments to operations that we were not informed, there was also reference – there was always reference that, you know, some of these operations would be looked at at the presidential level. So there was no direct reference to say it was for the formal projects. There were projects looked at at the presidential level. That is my understanding.

ADV PRETORIUS SC: So were the words ‘project of the President’ in that context used by you?

20 **FRANK:** No, it was the presidential project – presidential level, sorry.

ADV PRETORIUS SC: What is a presidential project?

FRANK: I do not know.

ADV PRETORIUS SC: So whether it was project of the President or presidential project, those words were used.

FRANK: At the presidential – no, no, no. At the presidential level.

ADV PRETORIUS SC: Well, what is it? You have said presidential project and you have said projects at the presidential level. What words were used?

FRANK: I used presidential level that these 2.5 had to do with anything at the presidential level.

ADV PRETORIUS SC: Alright. Now what is a project at the presidential level?

10 **FRANK:** I would not know. That is why I am saying it is something [indistinct]. I do not know anything about it.

CHAIRPERSON: Is that how they were referred to by other people as well?

FRANK: Yes, that is what I heard around. Remember this was [indistinct] as operatives, as [indistinct] if someone else would have to do – to deliver that money, because I was not the only one delivering. My understanding at the level of operations and our operatives, that was the understanding that there is a presidential level. As to what
20 is that presidential level a need-to-know principle applied. I had never asked about it.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: I would like you to go to page 909, please.

FRANK: Yes, sir.

ADV PRETORIUS SC: The last line, Demi is recorded as having said:

“What was the spending on Wave?”

W-a-v-e. And at the top of the page 910 you are recorded as having said:

“Exactly, that is what I am saying, ma’am. We would draw money from the beginning which I do not dispute.”

Demi is recorded as saying:

10 “Because the first withdrawal of 20 million. Frank - exactly. Demi - of the 30 million. Frank - exactly there was those withdrawals as instructed to go to the relevant person that we must go and give and they do. So I agree with you that there was expenditure not related. Demi - okay, which is irregular. Frank - yes, I agree with you, ma’am.”

Did that conversation take place?

FRANK: The conversation took place and that reference of 20 million it was a reference of allocation. The first
20 allocation of the project was 20 million, not withdrawn. And then later the project was further allocated 30 million.

ADV PRETORIUS SC: And do you confirm that you said that that was irregular, that particular withdrawal?

FRANK: What irregular?

ADV PRETORIUS SC: Well, I am asking you the question,

if I may, because... [intervenes]

FRANK: What is that was irregular? I do not follow.

ADV PRETORIUS SC: Well, I asked you... [intervenes]

CHAIRPERSON: We will help clarify. You said withdrawal was the wrong word used there. What was the right word that you said... [intervenes]

FRANK: Yes, it was allocation.

CHAIRPERSON: Allocation.

FRANK: Allocation, yes. And later 30 million.

10 **CHAIRPERSON:** So instead of withdrawal of R20 million it is supposed to be an allocation of R20 million.

FRANK: Allocation, yes.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: But then you say or it is recorded against your name as you having said:

“So, I agree with you that there was expenditure not related. Demi - okay, which is irregular. Frank - yes, I agree with you, ma’am.”

20 Let me ask you, you confirmed that that conversation took place. What does that mean?

FRANK: Okay, what it meant here is that remember when these projects [indistinct] personnel had to be [indistinct] to this project, which means Project Wave was going to be utilised in conjunction with personnel recruited specifically to deal with that operation or that project.

So when an approval took place in January 2015 or in November 2014, somewhere there, I am not really sure, personnel had not been recruited as yet. However, because of the pressing need to carry out the operation money was utilised in that process, you know, without this particular personnel. So the personnel came into being almost, you know, towards the middle of the project already. So other personnel within other assets were utilised for the implementation of the project.

10 **ADV PRETORIUS SC:** Alright. I must just say, Frank, that we do have a recording of the interview in fairness to you that is the source of this transcription. So if you need to listen to that or obtain it, we can possibly make it available to you, but I just want to place on record that this according to the investigators... [intervenes]

FRANK: I was just... [intervenes]

ADV PRETORIUS SC: Let me finish. Let me finish, please.

FRANK: I was making a... [intervenes]

20 **ADV PRETORIUS SC:** That this is according to the investigators an accurate transcript of a tape recording of the interview. We can move on then to page 922.

CHAIRPERSON: I think, Mr Pretorius, if there is a recording available it should be made available to him to listen to and compare with the transcript.

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: And then subsequently he can do an affidavit to say whether where he said it is not correctly recorded he still sticks with [indistinct].

ADV PRETORIUS SC: Yes, we will do so. That would be very useful.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Because then we have it in its totality.

10 **CHAIRPERSON:** Ja.

ADV PRETORIUS SC: Let us go to page 922 if you will.

FRANK: Yes, sir.

ADV PRETORIUS SC: I do not want to go into too much detail now because we are really pressed for time, Frank, but there is a discussion here about two amounts, one R20 000 which is R20 000 extra and an amount of R300 000 from halfway down the page to the bottom. Do you see that?

FRANK: I can see that. Yes, I can see that.

20 **ADV PRETORIUS SC:** Did that conversation take place?

CHAIRPERSON: I am sorry, what... [intervenes]

FRANK: Yes, it did... [intervention]

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: Page 922.

CHAIRPERSON: 922, okay. Continue. You may continue.

ADV PRETORIUS SC: Yes. Demi asks you two-thirds the way down on the page in relation to the R300 000:

“That was meant for Mahlobo and was discovered by Daryl. You do not know of that? Frank - no, no, no, it is not possible that Daryl would have discovered such. I will tell you why, ma’am. Money that was meant for Mahlobo would leave here to the Ministry.”

Was that said by you?

10 **FRANK:** Again, I know we have discussed about the excess money, the issue of excess money. I am not quite sure – conversant with the direction in which the money was taken. I know we spoke about was there a possibility that you guys would draw extra money and then I made a reference that I [indistinct] which money was sent to us in the office and it was in excess of 20 000 which were refunded back to the office.

ADV PRETORIUS SC: It is not clear... [intervenens]

20 **FRANK:** I know I had that discussion, but going forward I am not [indistinct].

ADV PRETORIUS SC: No, but I just want to know whether you said the words ‘money that was meant for Mahlobo would leave here to the Ministry’. Did you use those words? If necessary we can check on the transcript recording.

FRANK: Yes, that is why I am saying I am not sure about that, but I know we had a conversation of extra funds – withdrawals from funds, yes.

ADV PRETORIUS SC: And you say you cannot remember saying money that was meant for Mahlobo would leave here to the Ministry?

FRANK: Specifically that, yes. Yes.

ADV PRETORIUS SC: You cannot remember that.

FRANK: Yes.

10 **ADV PRETORIUS SC:** And if we give you the transcript you can confirm with us whether you said that.

FRANK: Will confirm, sir. Will confirm, sir.

ADV PRETORIUS SC: Right. If we could please then move on to – Chair, can we admit this as EXHIBIT YY16.2? The affidavit is YY16.1 and this transcript beginning at page 845 would that be YY16.2.

FRANK: Can you repeat for me, sir?

CHAIRPERSON: No, he is speaking to me, Frank. On mine, Mr Pretorius, the transcript starts at page 845. I
20 thought you said 842.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: It starts at 845.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: Okay. The transcript of an interview involving Frank that starts at page 845 would be admitted

as an exhibit and would be marked EXHIBIT YY... [intervenes]

ADV PRETORIUS SC: 16.

CHAIRPERSON: 16.

ADV PRETORIUS SC: Point 2.

CHAIRPERSON: Point 2. Yes. And you said you would like me to admit the affidavit as well.

ADV PRETORIUS SC: Yes, as 16.1. I think we have done that, but [indistinct].

10 **CHAIRPERSON:** Well, I do not think we did that at the beginning, but it is important we should do it. What page does it start?

ADV PRETORIUS SC: The affidavit appears at 1146.1.

CHAIRPERSON: 1146.1. No, you are right, Mr Pretorius, we did it.

ADV PRETORIUS SC: Yes. It was at that stage that you called me forward.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Are you at page 933, please?

20 **CHAIRPERSON:** 933.

FRANK: 933, you said.

ADV PRETORIUS SC: Yes.

FRANK: 933. Yes, sir.

ADV PRETORIUS SC: At page 933 is a certificate of veracity completed it appears by Gauteng Transcribers and

then there is a transcript of an interview at page 934 and following. It appears that – well, let me ask you. Were you interviewed by Mr Mufamadi as part of the high level review panel investigation?

FRANK: Yes, I was.

ADV PRETORIUS SC: And if we could go to page 1010, please. Well, before that let us go to... [intervenens]

FRANK: One?

ADV PRETORIUS SC: I am sorry. Let us go to page 950.

10 **FRANK:** 950.

ADV PRETORIUS SC: Yes.

FRANK: I have got up to 945.

ADV PRETORIUS SC: On the first half of the page it appears from the transcript at least that you told the panel about Operation Justice. Did you tell them about Operation Justice?

FRANK: Yes, I think we did.

ADV PRETORIUS SC: And the content of the first half is consistent with evidence you have already given in that
20 regard. Do you have any comment?

FRANK: Can you repeat for me, sir?

ADV PRETORIUS SC: Alright. At 975 if you would go there, please.

FRANK: 975.

ADV PRETORIUS SC: Yes, please.

FRANK: 975. Yes, sir.

ADV PRETORIUS SC: Alright. That speaks about Operation Lock and traverses issues that we have already traversed. Can you confirm that you told the high level review panel about Operation Lock?

FRANK: Yes, we did discuss with the panel. I did discuss with them.

ADV PRETORIUS SC: And then if we can go to 1010, please.

10 **FRANK:** 1010.

ADV PRETORIUS SC: At the bottom of page 1010 you will recall there is... [intervenes]

FRANK: Hold on, sir. Hold on, sir. I am at 1010.

ADV PRETORIUS SC: Right. At the bottom of the page you are recorded as having said:

20 “Project Wave, W-a-v-e, was established in the sense that we wanted to recruit and handle journalists around Africa specifically because we felt that South Africa actually at that time there was a need for us to expand in terms of exposure in understanding, you know, of what South Africa is doing and so forth, especially around the areas of...”

And I have read it exactly as it is printed there. Did that conversation take place and did you tell the panel that?

FRANK: I can confirm it took place, sir.

ADV PRETORIUS SC: And it is correct, is it?

FRANK: It is correct, sir.

ADV PRETORIUS SC: Then let us go over the page to 1011, the second paragraph.

FRANK: Yes, sir. Yes.

ADV PRETORIUS SC: You are recorded as having been asked – well, not asked, but speaking about Project Justice and you say halfway down the first paragraph:

10 “It was an operation, the one that I referred to earlier when I said it was intended to have an understanding who sit where within the justice fraternity.”

The next paragraph reads:

 “Specifically issue that pertain the judges, because there was this feeling with these judges are being handed...”

I presume it should mean handled.

20 “...by foreign intelligence services. So my understanding of the project was there.”

Unknown female is recorded as having asked:

 “Was it not intended to influence decisions of judges. Frank - at a point I can say it was because I know for [indistinct] even within Project Justice we are paying a lot of money a month and these

monies were said to be paid to a certain set of judges that were working on high profile cases and so forth and so forth. Unknown female – yes. Mr Frank - but I was not directly involved. I only know because I used to draw money for Masanda he gave direct to the office of the Minister because that project was being handled direct from that office of the Minister. Mr Mufamadi says it is fine.”

Did that conversation take place?

10 **FRANK**: Conversation took place, Chair.

ADV PRETORIUS SC: It took place... [intervenes]

FRANK: Yes, I would say also... [intervenes]

ADV PRETORIUS SC: I am sorry, I interrupted you.

FRANK: Suffice to say I can assume now that it is making reference to the issue of the 2.5 million that we spoke about – I mean, the Operation Justice that we spoke about in last transcript.

ADV PRETORIUS SC: Yes. Can I ask whether what you said here was to the best of your knowledge what you knew
20 correct?

FRANK: No, no, no, I did not know much about it. I just made speculation of investigation of the judges, because I did not have in depth of that project [indistinct], you know. I only know that there was this assumption – not assumption or that information that reflected a threat, you

know, by judges colluding with foreign intelligences within the justice system. Therefore there was a need to confirm or refute that information by form of investigation.

ADV PRETORIUS SC: Well, you knew as I understand it, and correct me if I am wrong, that within Project Justice, we, that is the SSA, were paying a lot of money a month. Is that correct?

FRANK: Yes, remember I was making reference to that 1.3 and then 1.8.

10 **ADV PRETORIUS SC:** And it goes on to say, and these monies were said to be paid to a certain set of judges. Is this what was said?

FRANK: No, these monies were paid to deal with set of judges suspected of being involved in actual fact.

ADV PRETORIUS SC: Sorry, just say that again. These monies were paid... [intervenes]

FRANK: Were paid to deal with a set of judges suspected of being involved in this particular threat.

20 **ADV PRETORIUS SC:** Alright. Did you say however 'and these monies were said to be paid to a certain set of judges'. Did you say that?

FRANK: Not set of judges.

ADV PRETORIUS SC: No, no.

FRANK: Set of judges – monies were paid to deal with a set of judges, yes. Not paid to the set of judges.

ADV PRETORIUS SC: Alright... [intervenes]

FRANK: Because I would not have the information.

ADV PRETORIUS SC: Okay. You say your understanding of what you learnt was that they were paid – the money was paid to deal with a set of judges... [intervenes]

FRANK: Set of judges, yes.

ADV PRETORIUS SC: ...and you did not say, as I understand your evidence, and these monies were said to be paid to a certain set of judges.

10 **FRANK:** No, I would not because I do not have that evidence. I do not even know.

ADV PRETORIUS SC: Alright. Well, again we have the recording. We will provide the recording to you and we will ask you questions in relation to the recording, okay.

FRANK: Okay.

ADV PRETORIUS SC: Because the last sentence of that paragraph says, that where – I presume it means were, that were working on high profile cases and so forth and so forth. That sentence only makes sense if the money was
20 paid to judges. At least that is something that can be extrapolated or inferred from that. Maybe it is not the only interpretation. What do you say about that?

FRANK: Ja, Chair, it could be that you choose to understand that way, however in my context this set of judges that were suspected [indistinct] is because these

are a set of judges that are working on high profile cases that foreign intelligence seeks to influence. That is my understanding.

ADV PRETORIUS SC: Alright. Let us get the transcript and we can clarify that in later questions. Right, then the next page, page 1012 and this in fairness to you when you placed matters of the Minister and the Ministry in its context, I just want to put this on record. In the middle of page 1012 you are recorded as having said:

10 “We just drew the money to say look, there is this operation running. So on your monthly withdrawals can you include this particular [indistinct] and that money was directly taken to the office of the Minister because he had people in his office. Mr Mufamadi - who was receiving that money? Mr Frank - sometimes it would be pseudonym Fukani [?]. Mr Mufamadi - yes. Mr Frank - who was the resurgent office of the Minister or it would have been IT XXX...”

20 And I think it is XXX he is the manager and then his particular post is described, which I am not going to detail. Did that conversation take place?

FRANK: Yes, I can confirm it did. I was making reference to JMZ.

ADV PRETORIUS SC: Yes, subject of course to all the

evidence that you have given about the Minister's knowledge and his phone calls and the like. But that is all in the transcript and I do not want to go back there. Then on page 1013, line 10, Mr Frank is recorded as having said:

“Remember this tasking that you were given that come from above. Mr Church - where is above? Mr Frank - the Minister or the DG because remember we work directly longer with the DG,
10 Mr Dlomo. That is the only person we work with or the Minister.”

Is that correct?

FRANK: [Indistinct 00:13:12].

ADV PRETORIUS SC: Alright. The passage at the bottom of the page is inconclusive, but we may ask you about that later. If I could just take you then to page 1036.

FRANK: 1036. Yes, sir.

ADV PRETORIUS SC: At a stage you were suspended. Is that correct or... [intervenes]

20 **FRANK:** That is correct.

ADV PRETORIUS SC: Is that correct?

CHAIRPERSON: What is that stage?

ADV PRETORIUS SC: Page 1034.

CHAIRPERSON: Ja, but what is that stage? It is the stage of the letter?

ADV PRETORIUS SC: No, no, no, page 1034 of the bundle, Chair.

CHAIRPERSON: Yes, but that page I have got a letter.

ADV PRETORIUS SC: Yes, that is correct.

CHAIRPERSON: Ja, so that letter is dated June 2019.

ADV PRETORIUS SC: 3 June 2019, yes. I am going to ask about this letter, but in leading up to that question I must first establish as Mr Frank would want the context, Chair.

10 **CHAIRPERSON:** Ja, that is fine.

ADV PRETORIUS SC: You were suspended, Frank?

FRANK: Yes, sir.

ADV PRETORIUS SC: And this letter at page 1034 appears to be a letter written by yourself requesting a review of the suspension of yourself. Correct?

FRANK: Yes, sir. Correct, sir.

ADV PRETORIUS SC: Did you write this letter or did you have this letter written on your behalf?

FRANK: I wrote it personally, sir.

20 **ADV PRETORIUS SC:** You wrote it personally.

FRANK: Yes.

ADV PRETORIUS SC: And can we rely on its contents as being true and correct?

FRANK: Yes, sir.

ADV PRETORIUS SC: Could this be EXHIBIT YY – no, the

transcript, the Mufamadi panel transcript should be EXHIBIT YY3, Chair. I do not know if we have done that.

CHAIRPERSON: Well, we did not do that here, but we would have done it when Dr Mufamadi gave evidence.

ADV PRETORIUS SC: Now I am not sure whether this was admitted with Mufamadi, but perhaps it could be admitted again just for safety's sake.

CHAIRPERSON: The letter?

ADV PRETORIUS SC: No, no, Chair, I am going back.

10 Sorry, I am confusing issues.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: But it is in the nature of the time of day. Page 933... [intervenes]

CHAIRPERSON: When you finished late yesterday.

ADV PRETORIUS SC: Yes, Chair, so [indistinct] mitigating circumstances. Page 933.

CHAIRPERSON: 923.

ADV PRETORIUS SC: 933.

CHAIRPERSON: 933.

20 **ADV PRETORIUS SC:** That is the... [intervenes]

CHAIRPERSON: Yes.

ADV PRETORIUS SC: ...Mufamadi panel transcript. If that could be admitted as YY3.

CHAIRPERSON: It starts at – it actually starts at 934, but the cover page is 933.

ADV PRETORIUS SC: Yes, Chair. Certificate of veracity.

CHAIRPERSON: Certificate. I think we start there.

ADV PRETORIUS SC: Well, in fact the cover page is at 932, but I do not want to confuse issues, Chair.

CHAIRPERSON: Well, I think let us do it at 932.

ADV PRETORIUS SC: Right. Page 932 as YY3.

CHAIRPERSON: Is this transcript is the whole – does the whole of it relate to the interview of Frank?

ADV PRETORIUS SC: Yes, Chair, only Frank.

10 **CHAIRPERSON:** And it will be 16.3?

ADV PRETORIUS SC: 16.3, yes. YY16.3.

CHAIRPERSON: Ja, okay. The transcript of an interview between Frank and the high level panel which starts at page 932 will be admitted and marked as EXHIBIT YY16.3.

ADV PRETORIUS SC: And then, Chair, if I may ask you please at page 1034 to admit that letter that has just been identified by Frank as YY16.4.

20 **CHAIRPERSON:** The letter of Frank dated 3 June 2019 that appears at page 1034 is admitted and will be marked as EXHIBIT YY16.4.

ADV PRETORIUS SC: Frank, you say that the contents of this letter we can rely on as being correct. It was penned by yourself.

FRANK: Yes, sir.

ADV PRETORIUS SC: Go to page 1036, please, and I just

want to very briefly put the paragraphs in the middle of the page on record where you say under the head 'members activities within CDSO':

10 “There were a number of other operations that were undertaken by CDSO which the member had no direct involvement to them other than the fact that the member was instructed to draw funds as per submissions and approval, deliver to the specified individual, place or office. Such was the case with: Operation Justice, started from 1.3 mil to 1.8 mil withdrawal delivered to the Ministry, received by code name Fukani or Head of the Ministry code name J. Commitment Fund, 2.5 million delivered to the Ministry. Operation Lock, R200 000 delivered to the Ministry.”

Is that a correct recordal of the facts to your knowledge?

FRANK: Correct, sir.

20 **ADV PRETORIUS SC:** And there of course commitment is used in a different context. It appears to refer to a specific project or operation rather than just a general reference to a promise or undertaking. Correct?

FRANK: Yes, sir. Yes, sir.

ADV PRETORIUS SC: Thank you. Let us then go on, please, to your own affidavit which appears as EXHIBIT YY16.1 at page 1146.1.

CHAIRPERSON: The page is?

ADV PRETORIUS SC: 1146.1.

CHAIRPERSON: Oh, okay.

ADV PRETORIUS SC: I am going to go through it fairly fast because we do not have much more time. We can go to paragraph 8, please.

FRANK: Paragraph 8.

ADV PRETORIUS SC: Yes. You refer there to... [intervenes]

10 **FRANK:** Which page is this?

ADV PRETORIUS SC: Page 1146.3, paragraph 8. 1146.3.

FRANK: Yes, sir.

ADV PRETORIUS SC: You talk there of Project Construção and Project Wave and you talk of an allocation of 30 million to Project Construção and 20 million in respect of Project Wave. It is misspelt but I presume it is W-a-v-e there. Is that correct?

FRANK: Yes, yes.

ADV PRETORIUS SC: Are those facts correct?

20 **FRANK:** Yes, this is correct, sir.

ADV PRETORIUS SC: Right and then at paragraph 14 on page 1146.4 you talk of Project Construção and you speak in paragraph 14 of recruits coming from outside the intelligence environment and these recruits were also trained in firearm handling. Is that correct?

FRANK: That is correct, sir.

ADV PRETORIUS SC: We could go then to – well, I am not going to – well, perhaps I should, other witnesses given evidence in this regard. Firearms – you say in paragraph 14:

“Firearms were sourced from the SSA armoury through Mr XXX at the instruction of Mr Dlomo and another person.”

Is that correct to your knowledge?

10 **FRANK:** That is correct to my knowledge, sir.

ADV PRETORIUS SC: Then if we go on, please, to 1146.7, I just want to ask you generally, please, is it correct that... [intervenes]

FRANK: 114?

ADV PRETORIUS SC: 6.7.

FRANK: Can you repeat for me, sir?

ADV PRETORIUS SC: 1146.7.

FRANK: Yes, sir.

ADV PRETORIUS SC: Is it correct that on occasion the
20 SSA would employ external service providers companies to undertake tasks on its behalf?

FRANK: Yes, sir, that is correct.

ADV PRETORIUS SC: Alright and what you say here in detail is indeed correct in that regard. Is that correct?

FRANK: Yes, sir.

ADV PRETORIUS SC: The statements in paragraphs 38 and following at page 1146.9 regarding Ntwanano Tours & Travel, are those statements correct?

FRANK: Sir, I will have preferred if you did not mention the name there, suffice to say... [intervenes]

ADV PRETORIUS SC: Oh, my apologies, it is not – I am sorry.

FRANK: [Indistinct 00:25:02].

ADV PRETORIUS SC: I mispronounced [indistinct]. You
10 would never guess the spelling from my bad pronunciation.
I would like to go to paragraph 44 that is on page 1146.10.

FRANK: Yes.

ADV PRETORIUS SC: Were there dealings with the company mentioned there? Its pseudonym is Kale, K-a-l-e.

FRANK: Yes.

ADV PRETORIUS SC: And were you introduced to the relevant persons connected to Kale by Mr Dlomo and/or Minister Mahlobo?

FRANK: Yes, I think one of those, yes, that would have
20 been correct.

ADV PRETORIUS SC: And can you confirm that an amount of R12 million was allocated for that operation?

FRANK: I can confirm, sir.

ADV PRETORIUS SC: Right. Then on page 1146.11 you give details in relation to Project Construção. I am not

going to put those all on record, but those are set out there and as far as you know they are correct. Is that so?

FRANK: They are correct, sir.

ADV PRETORIUS SC: And then on page 1146.12 you deal with Project Wave. It was spelt there W-a-i-v-e. It should be W-a-v-e as I understand it. Correct?

FRANK: Yes, sir.

ADV PRETORIUS SC: Right. You say in paragraph 54:

“My involvement with the project was limited to...”

10 And then there is an incorrect number.

“...one, coordinating resources and requesting funds for the payment of identified operations and assets with the obvious financial accountability.”

Is that correct?

FRANK: That is correct, yes.

ADV PRETORIUS SC: And then 50 – or it is numbered 53.2 on page 1146.13:

20 “Spotting and profiling of media personnel and/or journalists with the aim of recruiting them for the purpose of satisfying identified operational needs. These targeted journalists were to be recruited from outside South Africa.:

Let me just ask firstly, what were the operational needs that had to be satisfied?

FRANK: Sir, I think that will have to be limited to that,

given that they actually copied a version of that needs and better explain [indistinct].

ADV PRETORIUS SC: But you do speak here of targeted journalists being recruited. Do you see that?

FRANK: Yes.

ADV PRETORIUS SC: Is that correct?

FRANK: Yes.

ADV PRETORIUS SC: Targeted journalists were recruited. Correct? From outside South Africa.

10 **FRANK:** Yes.

ADV PRETORIUS SC: You do frankly admit – sorry, I did not mean that. You do candidly admit that your wife was involved in a particular company and one of your children was recruited. Is that correct in the context of what you say in paragraph 55 for your daughter? Is that correct?

FRANK: Yes, that is correct.

ADV PRETORIUS SC: And you do say children and relatives of other members within CDSO and SSA were recruited.

20 **FRANK:** Yes, that is correct, which is nothing out of the normal.

ADV PRETORIUS SC: Yes. Paragraph 56 reads:

“Project Wave’s implementation of the media and journalist operations... [intervenens]

FRANK: Can I – sorry, sir. Chair?

ADV PRETORIUS SC: Yes, of course.

CHAIRPERSON: Yes. Yes, Frank.

FRANK: Can I draw you back to the issue raised by Mr... [intervenes]

CHAIRPERSON: Pretorius.

FRANK: Yes, yes, with relation to my wife. I am not sure there, but that the [indistinct] was made that the company that [indistinct] it was registered under her name, that is why it is not her involvement. It is not involvement. I think
10 ...[intervenes]

ADV PRETORIUS SC: Alright. But it is important also in fairness to mention that you do say that that company received no financial benefit.

FRANK: Oh yes very very correct. It was not (inaudible)

CHAIRPERSON: Okay.

FRANK: And that played 00:00:19 by myself.

ADV PRETORIUS SC: Alright then on page 1146.14.

FRANK: Yes.

ADV PRETORIUS SC: You record your knowledge of
20 Project Mayibuye, you see that?

FRANK: Yes, yes Sir.

ADV PRETORIUS SC: And you say in paragraph 58

“I generated the memo requesting the establishment of this project at the request and briefing given to me by Mr Dlomo in a meeting attended by myself and two others.”

FRANK: Yes that is correct.

ADV PRETORIUS SC: Right. And in paragraph 52 you say:

“I however need to mention that my involvement under this project was as a result of newly established operations within the project namely Operation Justice, Operation Lock, Operation Seskona and Operation Safe Return.”

You see that?

10 **FRANK**: Yes. Yes Sir.

ADV PRETORIUS SC: And then in paragraph 61.1 you describe Operation Justice. We have dealt with that.

FRANK: Yes.

ADV PRETORIUS SC: And you say at the end of that paragraph:

“Such funds were dispensed”

FRANK: Yes.

ADV PRETORIUS SC: Well you do mention R1.3 million and R1.8 million on a monthly basis for the purpose of the
20 operation. Is that correct as far as you know?

FRANK: That is correct.

ADV PRETORIUS SC: Such funds...

FRANK: That is correct.

ADV PRETORIUS SC: You say were dispensed to the office of the then Minister of State Security Mahlobo. Is that

correct?

FRANK: That is correct.

ADV PRETORIUS SC: And then Operation Lock is referred to in paragraph 61.2 again the last sentence of that paragraph reads:

“The dispensing of these funds”

That is the funds you mention in the paragraph.

“Was through the office of the Minister.”

You see that?

10 **FRANK**: That is correct. Yes Sir.

ADV PRETORIUS SC: And then Operation Seskona you deal with in paragraph 61.3 and you describe its origins.

FRANK: Yes.

ADV PRETORIUS SC: Being a consultative meeting that took place in the presence of various persons including Minister Mahlobo. Correct?

FRANK: Correct Sir.

20 **ADV PRETORIUS SC**: And Operation Seskona you described as being an operation designed to launch investigative operations monitoring and penetration into the civil society movement that was responsible and the destabilising and causing disorder in the City of Cape Town in the name of protest against lack of service delivery. Is that correct?

FRANK: Well described. That is correct.

ADV PRETORIUS SC: Yes and then paragraph 61.4 you refer to Operation Safe Return being an operation designed to penetrate, investigate in order to confirm or refute the involvement of the then newly formed political party in the destabilisation of the Bojanala region in the North West Province – Bojanala region of the North West Province. Is that correct?

FRANK: That is correct. That is correct Sir.

ADV PRETORIUS SC: Then in paragraph 61.5 you say the
10 following:

“In addition and operation code named Commitment was undertaken by CDSO. I have no recollection of the intended purpose however I remember that the funds allocated were to the value of R1.5 million on a monthly basis and were dispensed to the office of the Minister and or at times given to my colleague.”

And then you mention two colleagues.

20 “The operation had the approval of the Minister D Mahlobo and Mr Dlomo.”

Are those statements correct?

FRANK: Certainly it is correct Sir.

ADV PRETORIUS SC: And then paragraph 62 you deal with Project Khusela – K-h-u-s-e-l-a and it is said here:

“The establishment of this as a project was after the Minister’s intervention into the CDSO financial matters in which the budget of CDSO needed to be reallocated as at the time it had been depleted. Notable and important is that the depletion of the CDSO budget was as a result of the establishment of the Presidential support unit which had no allocated budget. Instead general CDSO budget was utilised for the purpose of supporting PSS logistical needs of members.”

Correct?

FRANK: That is correct Sir.

ADV PRETORIUS SC: And Project Khusela’s operational needs it appears from paragraph 6.1 arose out of the establishment of the toxicology unit or operation. Correct?

FRANK: Repeat the sentence.

ADV PRETORIUS SC: About which we have heard in evidence. Is that correct?

FRANK: Can you repeat that for me?

ADV PRETORIUS SC: Project Khusela’s operational needs included the requirements or the needs of the team of the counter intelligence named Toxicologist forming part of the Presidential support operations. Correct?

FRANK: Sir I do mention all the elements or components which comprised that (inaudible) which includes not only toxicology but also the technical compass and the legislature.

ADV PRETORIUS SC: Alright. But that is all there in the – in the paragraph.

FRANK: Yes it is all there.

ADV PRETORIUS SC: Is that correct?

FRANK: Yes. 6.2 yes.

10 **CHAIRPERSON:** That is 62.1 huh?

FRANK: 62.1 Sir – Chair.

CHAIRPERSON: Ja okay.

ADV PRETORIUS SC: 62.1 yes I apologise Chair. On page 1146.16. Then it seems that in paragraph 74 you respond to a number of documents – operational documents.

FRANK: Yes.

20 **ADV PRETORIUS SC:** That were provided to you by the commission's investigators. You were asked for your response and you give your response. Do I understand the position correctly? You were given a pack of documents – financial documents – documentary evidence.

FRANK: That is correct.

ADV PRETORIUS SC: And I stress documentary evidence in relation to various transactions.

FRANK: That is correct Sir.

ADV PRETORIUS SC: So in the left hand column of the table that appears at 1146.20 and the following pages there is a brief description of the transaction as recorded in the documents and referenced to your name. Is that correct?

FRANK: That is correct Sir.

ADV PRETORIUS SC: And in the right hand column are your comments.

FRANK: That is correct Sir.

ADV PRETORIUS SC: Alright now I am only going to refer
10 to a few. If you could go to page 1146.25.

FRANK: Yes Sir.

ADV PRETORIUS SC: Are you there?

FRANK: Yes.

ADV PRETORIUS SC: You will see there is a document referred to in the extreme left hand column as M3.

FRANK: Yes Chair.

ADV PRETORIUS SC: Right now before we go on I am afraid I am going to confuse you a little. There is another bundle.

20 **FRANK:** Yes Sir.

ADV PRETORIUS SC: Bundle SSA1. Do the persons who are with you.

FRANK: Yes.

ADV PRETORIUS SC: Have that bundle and can they give it you please.

FRANK: Yes. I have got it.

ADV PRETORIUS SC: They are ahead of me then. Thank you. If you could go to SSA1 page 01 page 378.

FRANK: 3 page?

ADV PRETORIUS SC: 378.

FRANK: 378?

ADV PRETORIUS SC: Yes.

FRANK: Did you say 378?

ADV PRETORIUS SC: Yes I did.

10 **FRANK**: Yes. Yes.

ADV PRETORIUS SC: Right on that page certain details appear.

FRANK: Yes.

ADV PRETORIUS SC: Which are detailed in the left hand column of the table that appears on 1146.25.

FRANK: Yes.

20 **ADV PRETORIUS SC**: That document is a declassified document. It is the Financial Record received by the investigators from the SSA. It is headed Certificate of Receiving Cash.

FRANK: Okay.

ADV PRETORIUS SC: And your name appears at the top.

FRANK: Which page is that Sir?

ADV PRETORIUS SC: Page 378 of SSA01.

FRANK: Yes I am on it.

ADV PRETORIUS SC: Are you there?

FRANK: Yes that is correct now.

ADV PRETORIUS SC: You see it is a certificate of receiving cash.

FRANK: Yes.

ADV PRETORIUS SC: And the name of the person giving the cash is Frank that is you, is it?

FRANK: Yes.

ADV PRETORIUS SC: And the amount is R2.5 million.
10 R2 500 000.00 and the reason for giving cash is Operation Mayibuye. You see that? Whose signature is that below there?

FRANK: It is mine.

ADV PRETORIUS SC: Your signature and it is dated the 8th of July 2015.

FRANK: 15.

ADV PRETORIUS SC: Yes and the name of the recipient is recorded here as a pseudonym as being Lilly but that is what has been inserted as a pseudonym together with your
20 name inserted as a pseudonym. Now your explanation appears in the right hand column. It says:

“According to what I can remember she Ms Lilly requested that I collect and deliver on her behalf. She was not available to handle the transaction herself. I took it to the

relevant recipient and they signed for it.

The recipient's signature will not be that of

Ms Lilly but that of a recipient.”

Are those facts correct?

FRANK: Yes. Can I explain.

ADV PRETORIUS SC: Please.

FRANK: As to you so that we can (inaudible)

ADV PRETORIUS SC: Yes of course.

FRANK: I collected the money from the headquarters to our
10 remote office which I made Lilly to sign that she has – she
has received what she had asked me to collect. And in turn
she has delivered the money to the ended recipient. So
that signature at the bottom it is of the ended recipient. I
made her sign and then she makes the other recipient sign.
When she sign I keep a copy then finally she makes them
then sign and she give back to me and I take this one for a
settlement.

ADV PRETORIUS SC: Right now you need not mention the
name of any person.

20 **FRANK**: (Inaudible)l.

ADV PRETORIUS SC: I am sorry.

FRANK: So giving her to sign it was also to safeguard self.
I have delivered the money to her before she delivers.
Anything that can happen in between her trying to deliver
the money to the actual intended recipient I am covered that

I had given it to her.

ADV PRETORIUS SC: Who was the relevant recipient?

FRANK: I would not know.

ADV PRETORIUS SC: You would not know?

FRANK: I would not know. Not in this particular context I do not know.

ADV PRETORIUS SC: Yes well all the evidence we have so far is that monies for Project Mayibuye were delivered to the Ministry. Would that be consistent with your
10 knowledge?

FRANK: You see (inaudible) 00:14:06. But within Mayibuye there are operations of which commitment was one of those that money derives and the projects are delivered to the Ministry. It is not an entire 00:14:20 project monies that are delivered to the Ministry. Those identified three operations.

ADV PRETORIUS SC: Yes I understand that but what I am putting to you is we have other evidence that states that monies in the amount of R2.5 million were delivered for Project Commitment or Operation Commitment – I am
20 mixing it up again I am sorry and delivered to the Ministry.

FRANK: Yes but that is what we have been saying consistently.

ADV PRETORIUS SC: Yes. And that is consistent with your knowledge is it?

FRANK: Yes.

ADV PRETORIUS SC: Right. Then let us go on please to M14 on page 1146.

FRANK: From the original bundle.

ADV PRETORIUS SC: Well I am going to ask you – yes. So the bundle with your affidavit in.

FRANK: Yes.

ADV PRETORIUS SC: Deals with the issue of M14 at 1146.26.

FRANK: Okay.

10 **ADV PRETORIUS SC:** And if I can take...

FRANK: M14.

ADV PRETORIUS SC: Yes. 1146.26 M14.

FRANK: Okay.

ADV PRETORIUS SC: Are you there?

FRANK: Okay alright. Yes.

ADV PRETORIUS SC: Now if I can take you to the other bundle, Bundle 1 at page 449.

FRANK: 449.

ADV PRETORIUS SC: Right.

20 **FRANK:** 449. Yes Sir.

ADV PRETORIUS SC: You will see another certificate of receiving cash. This is a declassified document from the financial records of the SSA.

FRANK: Okay.

ADV PRETORIUS SC: The name of the person giving cash

and we will have to redact a portion of those – or those initials as they appear there in part but it is Frank. Do you see that?

FRANK: I see that.

ADV PRETORIUS SC: The amount is R2.5 million.

FRANK: Yes.

ADV PRETORIUS SC: Reason for giving cash Operation Mayibuye and the word thereafter seems to be Commitment, you see that?

10 **FRANK**: That is correct. That is correct.

ADV PRETORIUS SC: Right. And the signature is the same as the previous one is that your signature?

FRANK: Yes it is mine yes.

ADV PRETORIUS SC: And the date is the 30th of June 2016. You see that?

FRANK: 16 that is correct. That is correct.

ADV PRETORIUS SC: And then there is a recipient's signature I do not think we need go there but do you know who that person is rather than give his name?

20 **FRANK**: Ja.

ADV PRETORIUS SC: Is he a person at the Ministry by any chance?

FRANK: Look I do not want to speculate I am not sure that is our view but it is definitely not – I am not sure.

ADV PRETORIUS SC: Alright do not worry about that. So

once again we have a financial record that talks of the receipt of cash in amount of R2.5 million for the purposes of the Operation Mayibuye, Project Commitment. Correct?

FRANK: That is correct.

ADV PRETORIUS SC: Now there are two documents under M14. I have just referred you to one and your comment is:

10 “These dates refer to two separate transactions. One for Operation Commitment the other for another transaction. These transactions have the same withdrawn amount.”

You say:

 “I have no good memory of both however do understand that my name reflects on the document relating to Project Commitment.”

FRANK: Okay.

20 **ADV PRETORIUS SC:** Right but at least what we know from the document as confirmed by your evidence that there is a financial record of R2.5 million in cash being withdrawn from SSA for the purposes of the implementation of Commitment. Correct? Project Commitment.

FRANK: Correct.

ADV PRETORIUS SC: Alright. Then let us – before you – do not worry there is something I wanted to point out but I will come back to it in a moment. If you could go to 1146.27

please. M15.

FRANK: I am there.

ADV PRETORIUS SC: Against the document number M15.

FRANK: Yes.

ADV PRETORIUS SC: Now there are several documents.

FRANK: Yes.

ADV PRETORIUS SC: I am sorry Chair I am just getting the document that I want to put.

CHAIRPERSON: Okay.

10 **ADV PRETORIUS SC**: And I am going to be in time.

CHAIRPERSON: Okay.

FRANK: Chair may I ask we take five minutes to run to the bathroom while that is being sorted out.

CHAIRPERSON: Yes. Okay no that is alright.

FRANK: Thank you.

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: Sorry Chair.

CHAIRPERSON: He has asked for a five minutes break.

ADV PRETORIUS SC: Sure.

20 **CHAIRPERSON**: So let us take that five minutes break.

ADV PRETORIUS SC: Thank you Chair.

CHAIRPERSON: We adjourn for five minutes.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

ADV PRETORIUS SC: Hello, Frank. Thank you, Chair.

FRANK: Good afternoon, sir. Good afternoon, Chair.

ADV PRETORIUS SC: If I could take you, please, to page 1146.27 and the documents ...[intervenes]

FRANK: Yes, I am there.

ADV PRETORIUS SC: ...in 15.

FRANK: Yes.

ADV PRETORIUS SC: And if I may take you to the other bundle, Bundle 1 at page 463?

10 **FRANK:** Yes, sir. 463.

ADV PRETORIUS SC: Right. Again, this is a certificate of receiving of receiving cash. It has been classified, extract from the financial records of the SSA. Name of the person getting cash, Frank. Amount, R 2.5 million. Reason for giving cash, Operation Mayibuye. Underneath that, commitment. Date, 30 June 2016. I am going to go through all the documents if I may and then ask for your comment.

20 At page 464 of Bundle 1. The name of person – a similar document. Name of person giving cash, Frank. Amount, R 1.4 million. Reason for giving cash, Project Mayibuye, Operation Justice. Date, 9 June 2016.

The third document at page 465. Amount, R 1.4 million. Name of person giving cash, Frank. Amount in words, one million four hundred thousand rand only.

Reason for giving cash, Operation Justice (Mayibuye).
Date, 30 June 2016.

Another document. Similar document. Page 466
of Bundle 1. Name of person giving cash, Frank. Amount,
R 300 000,00. Amount in words, three hundred thousand
rand. Reason for giving cash, Operation Lock. Date,
30 June 2016.

And finally. Page 467. A similar document.
That is a certificate of receiving cash. Name of person
10 giving cash, Frank. Amount, R 200 000,00. Reason for
giving cash. And this becomes a little bit difficult to read
but R 30 000,00 remuneration. Operation, Lock.
R 70 000,00 it appears. Logistics and expenses.
Signature, 30 June 2016. Name of recipient, Correctional
Officer. And at the bottom of the page is a note.
R 30 000,00 remuneration. R 100 000,00. Current invoice,
R 70 000,00. Current ops expenditure. But appears to be
related to Ops Lock.

Now those documents were described on page
20 1146.27 in a table to you. And your comment in the right-
hand column is: Transactions herein are clear and self-
explanatory. Do you see that?

FRANK: I see that, sir.

ADV PRETORIUS SC: So I take it, you have no difficulty
with the contents of the document or the description in the

left-hand column?

FRANK: No, I did not have at all.

ADV PRETORIUS SC: I am sorry. I did not hear that.

FRANK: Yes, I think I was answering to the column with no difficulty.

ADV PRETORIUS SC: Alright. Now if you would look at the description of the document on the left-hand page and it may not be apparent because of the redaction but ...[intervenes]

10 **FRANK**: Yes.

ADV PRETORIUS SC: ...the investigators described the documents in M15 as – and I am looking at the bottom half of page 1146.27. Cash receipt, 30 June 2016. Operation Mayibuye. Commitment, R 2.5 million handed over by Frank to, and there is a name, right? And then underneath that. Cash receipt, 30 June 2016. Operation Justice. R 1.4 million handed over by Frank to, and then there is another name.

FRANK: Yes.

20 **ADV PRETORIUS SC**: Now because of the similarity of that name to a different name, I am going to be asked that it be redacted. But is that person – does that person work at a place that we have mentioned in evidence?

FRANK: Yes.

ADV PRETORIUS SC: And what is that place?

FRANK: The last one?

ADV PRETORIUS SC: Yes.

FRANK: The last one works at that facility, remember?

ADV PRETORIUS SC: Is that the ministry?

FRANK: No, no, no. The last one. Are you referring the one on page 1146.28?

ADV PRETORIUS SC: Yes. No, I am talking about... Oh. No, no, no. I am not talking about 1146.28. I am talking about, the bottom of the page, 1146.27.

10 **FRANK**: ...seven.

ADV PRETORIUS SC: Do you see there?

FRANK: Yes, I see that.

ADV PRETORIUS SC: It was handed over by Frank too and we are not going to mention that name.

FRANK: Yes.

ADV PRETORIUS SC: And then handed over by Frank to another name.

FRANK: Yes.

20 **ADV PRETORIUS SC**: My understanding is that that person works at the ministry.

FRANK: Yes.

ADV PRETORIUS SC: Yes. Alright. You deal with certain other facts on page 1146.30 and following. Do you have anything to add?

FRANK: Can you repeat for me, what page is that?

ADV PRETORIUS SC: Well, we have finished with the tables in relation to documents.

FRANK: Yes? Okay.

ADV PRETORIUS SC: We are not going to deal with anymore but at page 1146.30, your affidavit continues. It is there for the record.

FRANK: Yes.

ADV PRETORIUS SC: I do not intend to ask you any questions unless you have anything you wish to say?

10 **FRANK:** No, not at this juncture. It is fine.

ADV PRETORIUS SC: Thank you. Chair, if you bear with me for a moment, please?

CHAIRPERSON: [No audible reply]

ADV PRETORIUS SC: Other projects are mentioned but I take it as they are mentioned in your affidavit or in your commentary, we can rely on that evidence as being correct.

FRANK: That is correct, sir.

20 **ADV PRETORIUS SC:** Alright. Okay, Frank. Subject to your confirmation that the transcripts of your interviews with the Internal SSA Investigator and with the Mfumadi Panel, our concern – we will let your legal representative have those. I have no further questions, Chair.

CHAIRPERSON: Thank you very much Frank. We, once again, appreciate that you have availed yourself. I will now excuse you. You are now excused.

FRANK: Chair?

CHAIRPERSON: Yes?

FRANK: I am not sure but, you know, from the beginning of this exercise ...[intervenes]

CHAIRPERSON: Yes.

FRANK: ...I thought perhaps I will find space ...[intervenes]

CHAIRPERSON: Ja.

FRANK: ...to, you know, at – to say something to you,
10 Chair.

CHAIRPERSON: Okay.

FRANK: And this one, Chair, is ...[intervenes]

CHAIRPERSON: Yes, go ahead.

FRANK: The first one is just to make an indication that me being here, it is in response, not only to the request made by the then acting DG, my being here, also, it was also motivated, myself consciousness and willingness to assist the Commission with this furthering of evidence.

CHAIRPERSON: Yes.

20 **FRANK**: However, also within my own context that I thought, you know, this exercise in the end would have been able to dispel some of the things that, you know, were presented by some witnesses to the Commissions to which they have made or that built(?) to the fact that, you know, we operated, you know, as we believe, you know,

without control, without discipline(?) and so forth.

CHAIRPERSON: Yes.

FRANK: However, I know this is a matter that can be dealt with perhaps in the correspondence forum(?), but I want to put it on record sir, that my understanding and my view of things is that we only did the most(?) things(?) on narratives as provided for in the investigation.

But that also we acknowledge that there might be areas in which we might have acted or done things
10 wrong or perhaps we could have done it better or in a better way ...[intervenes]

CHAIRPERSON: Yes.

FRANK: ...but we did not do.

CHAIRPERSON: Yes.

FRANK: Is the notion that suggests that we deliberately created empowerments(?) in which we tend to mislead or categorically(?) we walked(?) in the wrong boots. [Speaker not clear – transmission not clear]

CHAIRPERSON: Yes.

20 **FRANK**: The brisket(?) in terms of the legislation, the directives that we must not – that empower us in whatever we are doing. Some witnesses may even said things that in our view(?) there were no reports, that were no need(?) in the planning. [Speaker not clear – transmission not clear]

CHAIRPERSON: Yes.

FRANK: In this particular(?) witnesses, they are not familiar with operations like that.

CHAIRPERSON: Yes.

FRANK: [Break in transmission – speaker unclear] Even in covert operations, if product assets are custodian(?) ...[indistinct] reports inclusive.

CHAIRPERSON: H'm?

FRANK: So, this – not have received reports. Witnesses
10 may not have seen the need.

CHAIRPERSON: H'm.

FRANK: Witnesses may not have seen whatever they referred to but that is not suggesting that these things were not there.

CHAIRPERSON: H'm.

FRANK: These things were there. [Indistinct] [00:11:55]
particular areas, we have not done wrong but we have never done it with any intent to cause(?) harm(?)
[00:12:03] [Speaker not clear – transmission not clear]

20 **CHAIRPERSON:** Yes.

FRANK: I am not saying this because some of us still have a career within the industry(?). We would love to continue to this country going forward.

CHAIRPERSON: Yes.

FRANK: So, place that on record because I do not want

anything that is to suggest we are here because we are guilty, as said to be by some of the witnesses.

CHAIRPERSON: Ja.

FRANK: Might be the point maybe some witnesses that even without evidence of things even without making reference to legislature but confidently stood and say to the Chair that this particular animal did conform to the regulations of the states. So, perhaps, as we go on, Chair, we will find a way of assisting the Commission further to
10 understand that this was done within the ambit of, you know, serving our country.

CHAIRPERSON: Yes.

FRANK: Thank you very much.

CHAIRPERSON: Well, mister – well, Frank, what you have said is important. So I would then suggest that to the extent that you believe that some witnesses have given the Commission a wrong picture or inaccurate picture about the State Security Agency and how things are done there. I would be interested in hearing your side of seeing things.

20 So I would encourage you to be in touch with the Legal Team and I would encourage the Legal Team to obtain an affidavit from you to the extent that they might not already have which deals with that aspect. And if you need to go to certain particular features of the evidence of some of the witnesses who you believe did not give an

accurate picture, I would like you to deal with that in an affidavit.

And then within the constrains, time constrains that the Commission has, we would try and find a way, either for you to come back and deal adequately with that or we could arrange that your affidavit or a summary of your affidavit or the main features of your affidavit be read out to me in a public hearing by an evidence leader so that the public knows what you have to say so that the picture
10 that you believe is not accurate, is corrected at least from your point of view. Would that be fine with you?

FRANK: Ja, I think you have said it well. I would prefer to actually dispose to a kind of an affidavit which you know can be used and by the omission going forward ...[intervenes]

CHAIRPERSON: Yes.

FRANK: ...without me having to come back.

CHAIRPERSON: Okay.

FRANK: Or even if you want to something of – without me
20 having to come back.

CHAIRPERSON: Okay. No, that is fine. If you prefer not to come back, that is fine.

FRANK: Yes.

CHAIRPERSON: I just thought you might ...[intervenes]

FRANK: I will prefer(?) to dispose that.

CHAIRPERSON: Yes.

FRANK: I will definitely dispose to an affidavit, Chairperson.

CHAIRPERSON: Okay. No, that is alright.

FRANK: Yes.

CHAIRPERSON: And Mr Pretorius will let me know once he has got it and we can have it or at least its main features ...[intervenes]

CHAIRPERSON: Yes, perhaps we could extent that
10 invitation to all the material witnesses.

CHAIRPERSON: Yes, yes, ja.

ADV PRETORIUS SC: Chair, and if I may make a comment. From whatever perspective and whatever role was played or alleged to have been played, all witnesses seem to recognise that there are problems.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: And that there may be solutions and perhaps they could deal with that issues as well.

CHAIRPERSON: Yes, yes. So any witness who feels that
20 the correct picture of SSA has not been given or some witness gave a picture that is not accurate, they must feel free to be in touch with the Legal Team of the Commission and to depose to affidavits that puts what they believe is the correct picture of the State Security Agency. But thank you very much, Frank.

FRANK: Thank you very much Chairperson.

CHAIRPERSON: Okay thank you. We are going to adjourn the day session and then we – I am going to come back after 15-minutes and then I will hear the evidence of Ms Gigaba, Norma Gigaba, I believe. And after that, I will hear the evidence of Mr Peter, I believe. So I will adjourn for – I think I see the evidence leader for the next work stream. Mr Myburgh is there. So I will take a 15-minutes adjournment and then resume. We adjourn.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Mr Myburgh. Good afternoon, everybody.

ADV MYBURGH SC: Good afternoon, DCJ.

CHAIRPERSON: Are you ready?

ADV MYBURGH SC: Yes, we are.

CHAIRPERSON: Yes. Okay. Ms Gigaba is legally represented?

20 **ADV MYBURGH SC**: Yes, the representation is the same as before.

CHAIRPERSON: Yes. Okay alright. Thank you, thank you, thank you. Okay alright. Good afternoon, Ms Gigaba.

MS GIGABA: [No audible reply]

CHAIRPERSON: Your mic is off.

MS GIGABA: Good afternoon.

CHAIRPERSON: Okay, thank you. Thank you for coming back. Okay, Mr Myburgh.

ADV MYBURGH SC: Yes, thank you. Chairperson, Ms Gigaba's exhibit is Exhibit 26. I understand you have it in front of you. I am going to start by taking her to a supplementary/clarification affidavit that she recently filed. I assume you would want the ...[intervenes]

CHAIRPERSON: Yes ...[intervenes]

ADV MYBURGH SC: ...the oath to be administered?

10 **CHAIRPERSON:** Yes. But maybe before that. For the benefit of the public, you could just indicate why she is back to give evidence.

ADV MYBURGH SC: Yes. Chairperson, you will recall that we had a marathon session that went on, I think it was until half-past eleven on one evening with Ms Gigaba.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Ms Gigaba did indicate, in the course of her evidence, that there were certain things that she was unhappy about. The content of the affidavit and
20 other things.

CHAIRPERSON: Ja.

ADV MYBURGH SC: It was always envisaged that she would put in that affidavit and that we would then have to deal with it.

CHAIRPERSON: H'm.

ADV MYBURGH SC: So that is one leg of sitting this evening. The other leg and I suppose it must follow after we have dealt with the supplementary affidavit and any corrections that she wants to make, we need then to put Mr Gigaba's version to her for her comment.

CHAIRPERSON: Yes.

ADV MYBURGH SC: So those are the purpose of this evening's session.

CHAIRPERSON: Okay. No, that is alright. Please
10 administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

WITNESS: I am Norma Mngoma Gigaba.

REGISTRAR: Do you have any objection to taking the prescribed oath?

WITNESS: No.

REGISTRAR: Do you consider the oath binding on your conscience?

WITNESS: Yes.

REGISTRAR: Do you solemnly swear that the evidence
20 you will give, will be the truth, the whole truth and nothing but the truth? If so, please raise your right hand and say, so help me God.

WITNESS: So help me God.

REGISTRAR: Thank you.

NORMA MNGOMA GIGABA: (d.s.s)

ADV MYBURGH SC: So, DCJ, sorry. I have just been advised that the oath has not been recorded because the witness spoke too softly.

CHAIRPERSON: Oh, okay. Please try again. Okay.

REGISTRAR: Please state your full names for the record.

WITNESS: I am Norma Mngoma Gigaba.

REGISTRAR: Do you have any objection to taking the prescribed oath?

WITNESS: No.

10 **REGISTRAR:** Do you consider the oath binding on your conscience?

WITNESS: Yes.

REGISTRAR: Do you solemnly swear that the evidence you will give, will be the truth, the whole truth and nothing but the truth? If so, please raise your right hand and say, so help me God.

WITNESS: So help me God.

NORMA MNGOMA GIGABA: (d.s.s)

CHAIRPERSON: Thank you. Okay.

20 **MS GIGABA:** Chairperson, I apologise. I would have wanted to probably just assist by inserting a few corrections on the supplementary affidavit which Mr Myburgh might be dealing with now. There are just some two cosmetic changes so that we place them on record so that we can place them on record ...[intervenes]

CHAIRPERSON: Oh, those have not been conveyed to Mr Myburgh as yet or is he aware of them? Do you want to ...[intervenes]

MS GIGABA: I would believe from the correspondence we have had that they have not been brought to his attention. However ...[intervenes]

CHAIRPERSON: Ja.

MS GIGABA: ...they do not appear as such on the supplementary affidavit.

10 **CHAIRPERSON:** Okay. Mr Myburgh, are you of any corrections to be made?

ADV MYBURGH SC: I – there were some things that were discussed. I am not aware of exactly what correction ...[intervenes]

CHAIRPERSON: Oh.

ADV MYBURGH SC: ...my learned friend had in mind but I have no objection ...[intervenes]

CHAIRPERSON: Ja.

20 **ADV MYBURGH SC:** ...to her placing on record if she wishes to.

CHAIRPERSON: Ja, okay let us do that.

MS GIGABA: Chair, it is strictly to deal with paragraph 66.4 of the original affidavit bundle, page 1015.

CHAIRPERSON: Is the affidavit at – oh, the affidavit is 997 – page 977 is the ...[intervenes]

MS GIGABA: Indeed, Chair.

CHAIRPERSON: ...the main one?

MS GIGABA: [No audible reply]

CHAIRPERSON: Okay alright.

MS GIGABA: At the first line, paragraph 66.4, shows the date of 18 June 2020 ...[intervenes]

CHAIRPERSON: Paragraph 66.4?

MS GIGABA: 66.4.

CHAIRPERSON: Oh, page 1015.

10 **MS GIGABA**: At page 1015, Chair.

CHAIRPERSON: Yes, you say that the – so the correction you would like to bring to my attention are corrections that should be made in respect of the main affidavit ...[intervenes]

MS GIGABA: The main affidavit ...[intervenes]

CHAIRPERSON: But ...[intervenes]

MS GIGABA: ...the content is otherwise ...[intervenes]

CHAIRPERSON: Ja, but those corrections are not catered for in the supplementary affidavit?

20 **MS GIGABA**: No, no. We missed them for something stated here. I think we printed the final version, somebody just did not put that up ...[intervenes]

CHAIRPERSON: Okay you can point them out but it would be important to still have then another supplementary affidavit to put them in because otherwise they may be

missed out because we cannot amend the affidavit.

MS GIGABA: Indeed.

CHAIRPERSON: Ja.

MS GIGABA: Indeed, Chair.

CHAIRPERSON: Okay. Point them out.

MS GIGABA: Chair, it will be the ...[intervenes]

CHAIRPERSON: 66.4 paragraph ...[intervenes]

MS GIGABA: 66.4, first line.

CHAIRPERSON: H'm?

10 **MS GIGABA**: The date reflected there is 18 June 2020.

CHAIRPERSON: Yes.

MS GIGABA: It should state the 20th of July 2020. At the second line, the date reflected is 24 June 2020. The correct date would then be 22 July 2020.

CHAIRPERSON: Okay.

MS GIGABA: Apart from that, Chair, it will only be the cosmetic change to the supplementary affidavit

CHAIRPERSON: Ja.

20 **MS GIGABA**: Where at paragraph 9.4 the last line ...[intervenes]

CHAIRPERSON: Well, where do we find the supplementary affidavit?

MS GIGABA: [No audible reply]

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: The supplementary affidavit,

Chairperson, is contained at page 1027.8.

MS GIGABA: The supplementary affidavit is at 1027.8.

CHAIRPERSON: Yes, I have got it. Okay where do make the corrections?

MS GIGABA: Paragraph 9.4, Chair. The last line of the paragraph.

CHAIRPERSON: 9.4. Yes?

MS GIGABA: It says to “his commission” when it is supposed to be to “this commission”.

10 **CHAIRPERSON**: Oh, okay. Okay. Yes?

MS GIGABA: That is it. Those are the only pages, Chair.

CHAIRPERSON: Okay. No, that is fine.

MS GIGABA: Thank you very much.

CHAIRPERSON: Okay. I think those are the dates that are important. But of course, once you do a supplementary affidavit, you may do a third one as well. Okay alright. Mr Myburgh.

EXAMINATION BY ADV MYBURGH SC (CONTINUES):

20 Yes, thank you. Ms Gigaba, could I take you, please, to page 1027.8 your supplementary affidavit.

CHAIRPERSON: You confirm that we are going to be using Transnet Bundle 7?

ADV MYBURGH SC: Yes, Chairperson.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: Ms Gigaba, could you please go to

your supplementary affidavit towards the end of Exhibit 26 at page 1027.8?

MS GIGABA: [No audible reply]

ADV MYBURGH SC: It will be amongst the last ten pages or so of that bundle.

MS GIGABA: In this bundle?

ADV MYBURGH SC: 1027.8.

CHAIRPERSON: I think someone must assist her.

MS GIGABA: Okay.

10 **ADV MYBURGH SC**: At 1027.8, are you there?

MS GIGABA: Yes.

ADV MYBURGH SC: You find the supplementary affidavit of yours. If I could take you, please, to 1027.18?

MS GIGABA: [No audible reply]

ADV MYBURGH SC: You will see that it ends there and it includes an annexure.

MS GIGABA: Yes.

ADV MYBURGH SC: 1027.19, the letter from your attorney, through to 1027.22. Do you see that?

20 **MS GIGABA**: Yes.

ADV MYBURGH SC: If I could ask you, please, to go back to page 1027.18? Do you confirm that you deposed to this affidavit on the 18th of May 2021?

MS GIGABA: [No audible reply]

ADV MYBURGH SC: Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: You confirm the truth and accuracy of this affidavit?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Chairperson, I would ask that you admit this affidavit of Ms Gigaba, dated the 18th of May 2012, commencing at Transnet Bundle 7, page 1027.8 as Exhibit BB-26.4.

CHAIRPERSON: The affidavit of Ms Norma Mngoma
10 Gigaba that starts at page 1027.8 is admitted and then
would be marked as Exhibit BB-26.4.

**AFFIDAVIT OF MS GIGABA IS ADMITTED AND MARKED
AS EXHIBIT BB-26.4**

ADV MYBURGH SC: Ms Gigaba, I am going to take you through this affidavit before we turn to – me putting to you Mr Gigaba’s version. You say at paragraph 2 that:

20 “Having held consultations with the evidence leaders and/or further consultations with my legal team prior to my appearance at the Commission scheduled for 26 April, it became necessary that I filed a supplementary affidavit for the following reasons which I must highlight, are not exhausted...”

You say at 2.1:

“To clarify the aspects of my affidavit which

has previously served before this Commission and on which the Commission led me on 26 April 2021...”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: Sub-2:

“To highlight that when I deposed to the first affidavit, I was not given sufficient time to go through the affidavit before signing it.

10

The affidavit was signed in the presence of my previous counsel, who for security reasons, advised that I signed the affidavit immediately and that for security reasons we should not keep a copy thereof.

The Commission had dropped off a hard copy with my counsel after they informed him they could email it to us...”

You confirm that?

MS GIGABA: Yes.

20 **ADV MYBURGH SC:** And who is the previous counsel that you are speaking of there?

MS GIGABA: It was Advocate ...[indistinct]

ADV MYBURGH SC: Sub-3:

“To provide context insofar as is necessary to distinguish between information contained in

my affidavit allegedly being common cause or public knowledge which was not in my personal knowledge but that was instead provided by the Commission through its investigators...”

You confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Sub-4:

10 “To raise concern with the Commission’s decision to change evidence leaders when I had at all times prepared and consulted with Advocate Paul Pretorius SC with the understanding that he would be leading my evidence and substituting him with Advocate Anton Myburgh SC who had, seemingly though no fault of his own, clearly not been given a proper handover report on our consultations, resulting in having to rehash the consultations I had with Pretorius SC.

20 The result of this is that the concerns I originally raised with Pretorius SC were not known to Myburgh SC to my detriment.

Even when similar concerns were raised with Myburgh Sc, they were not dealt with.

Hence my continued concern with some parts

of the affidavit...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: And then you deal with those concerns.

10 “More specifically, the very fact that the affidavit contained information that I had no independent knowledge of and as a result created discomfort that I had addressed with Pretorius SC.

This situation added to the failure to make the necessary corrections to my affidavit, some of which were material...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Sub-6:

20 “The issue of my security concerns had been furnished to the Commission through the evidence leaders who had undertaken to ensure that I would be provided with security.

However, and despite numerous promises, nothing had been done by this Commission in this regard which indicated total disregard to my safety concerns duly raised.

Following my appearance before the

Commission on 26 April 2021, the Commission, through my attorney, inquired if I still needed security to be provided.

I advised my attorney that I no longer need the security as I have already appeared before the Commission...”

Do you confirm that?

MS GIGABA: Yes, I do.

CHAIRPERSON: Just before you proceed, Mr Myburgh. I
10 just want to indicate that subsequent to Ms Gigaba’s appearance last time and in the light of the issues she raised about the Commission not having attended adequately or may not at all, as far as she is concerned, to her security concerns.

I specifically asked the Head of the Investigation Team, Mr Nombembe, to take steps to establish what needs to be done and whether Ms Gigaba still needs security so that her concerns could be addressed and dealt with. I have been given a report but I do not think that
20 what I have been given is final.

So I just want to indicate that after I have heard your concerns, I did give instructions that you be approached to establish exactly what can still be done in regard to your concerns.

MS GIGABA: Thank you, Chair.

CHAIRPERSON: Okay alright. Thank you. Mr Myburgh.

ADV MYBURGH SC: Thank you, Chairperson. And at 2.7:

“My affidavit had been leaked to the media and given to AJ Gupta without my knowledge, permission or the Commission informing me or my counsel.

These developments further exacerbated the situation...:

And 2.8:

10 “The fact that a narrative has been created by the Commission that I had, in fact, approached the Commission to give evidence when that was, in fact, not true...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: And then at 3:

20 “I attached hereto the letter that I caused my attorneys of record to deliver to the Commission, highlighting the concerns that I have eluded to above, as Annexure NG-1...”

Now that is the letter that was read into the record previously and dealt with, correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Then at 4:

“In submitting this affidavit, I should not to be

understood to waive any of my legal rights which I hereby expressly reserve.

I confirm that some of the concerns expressed herein and also raised by me during my oral testimony and partly addressed by the Chairperson...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Alright.

10 “Insofar as my first affidavit filed with the Commission is concerned, I wish to clarify the following paragraph as contained therein...”

And then what you do is, you refer to paragraph 6 of your original affidavit and perhaps we can – you can keep our finger there and then you can open your main affidavit which you will find towards the beginning of that affidavit at paragraph 6, you will see a page 1000. The paragraph 6 is a table of Mr Gigaba’s ministerial appointments, correct?

20 **MS GIGABA:** Yes, sir.

ADV MYBURGH SC: What you say at your paragraph 5.1 of your correcting affidavits that:

“The dates set out when Mr Malusi Gigaba held various positions in Cabinet.

These dates are not within my independent

and/or personal knowledge or recollection.

They were, however, inserted from the information provided by the Commission through its investigators.

Consequently, I cannot vouch for the veracity thereof...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Then you deal with paragraph 10 in
10 your correcting affidavit. Paragraph 10 of your main affidavit that deals with - at page 1001 deals with – one of Mr Gigaba’s sisters, Mr Gugu Gigaba and makes reference to the fact that she was employed at Transnet in a particular position, a Manager in the Project Management Office. In paragraph 5.2 of your correcting affidavit you say:

“The specific position of Ms Gugu Gigaba who is employed at Transnet is provided.

20 This information was not within my personal knowledge and as a result I cannot vouch for its veracity.

I have been informed, however, by Advocate September that the information is subject of testimony before the Commission.”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Then you deal with paragraphs 19 and 20. This is something that you have testified to before the Chairperson. Paragraphs 19 and 20 of your main affidavit at page 1003 deal with the Waterkloof issue, correct?

MS GIGABA: Yes.

ADV MYBURGH SC: What you say in paragraph 5.3 of your correcting affidavit is that:

10 “An impression has been created from the reading of these two paragraphs that I went to the Waterkloof Airport twice a few days before the wedding and on the day of the wedding. The correct sequence is that I did not go to Waterkloof again on the day of the wedding but had been there only once a day or two before the wedding...”

Do you confirm that?

MS GIGABA: Yes, it is correct.

20 **ADV MYBURGH SC:** Then you deal with paragraph 30.2 of your main affidavit and this relates to the India trip and the date of it. It is something that you have also dealt with in your evidence previously. You say at paragraph 5.4 of your correcting affidavit:

“During my consultations with evidence

leaders, I could not vouch for the accuracy of the date in the absence of my passport as far as the India trip was concerned.

It has since been brought to my attention that according to Mr Gigaba, this trip, which is common cause, took place in 2015 which date I cannot dispute.

I travelled with Mr Gigaba to India only on one occasion...”

10 I think you have dealt with that before. So you want to correct the 2010 to 2015?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: Then you go on to deal with paragraph 39 of your main affidavit. You say:

“On 26 May, Mr Gigaba was transferred back to the Department of Home Affairs...”

So this is another date of ministerial appointment?

MS GIGABA: Yes.

20 **ADV MYBURGH SC:** You say at your paragraph 5.5 of your correcting affidavit, that this was not within your personal knowledge. It is a repetition of the point previously made, correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Then you deal with paragraph 44 of

you main affidavit at page 1009. It says:

“It is publicly know that Mr Gigaba, during his term as Minister of Home Affairs, had approved early naturalisation with members of the Gupta family...”

In your correcting affidavit at paragraph 5.6, you say:

10 “The information contained in this paragraph was not within my independent and personal knowledge...”

You cannot vouch for it.

“The information has been provided by the Commission through investigators...”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: And then the last correction that you want to make relates to paragraph 55.2 and 55.2 you will find at page 1012 where you say:

20 “On several occasions, I had also personally observed Mr Gigaba transferring money from his brown and black leather bags into his brown leather personal carry bag...”

You attached some of the examples. And then it goes on to say:

“He would later use the cash from his personal

carry bag to pay for our meals at
restaurants...”

Now the correction that you wish to make, you
find, it is a paragraph numbered 5.1 at the top of page
1027.13.

10 “Having read this paragraph, it is clear that the
information I provided was not adequately
and/or properly captured, to the effect that I
had indeed seen the bag being carried out of
the Gupta’s residence several times but I had
only seen Mr Gigaba transfer cash from the
bag to his carry bag only once...”

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: That is the point that you want to
make?

MS GIGABA: Yes.

ADV MYBURGH SC: So those then are your concerns and
your corrections?

MS GIGABA: Yes.

20 **ADV MYBURGH SC:** Now, on the balance of this affidavit,
you go on to deal with a different issue and perhaps I can
pick up at paragraph 8 at page 1027.13.

“The submissions and/or suggestions made by
Mr Solomons ...[intervenes]

CHAIRPERSON: Sorry, what page Mr Myburgh?

ADV MYBURGH SC: Page 1027.13, Chairperson.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Yes.

10 “The submissions and/or suggestions made by
Mr Solomon SC on behalf of Mr Gigaba in his
address to the Commission that I cannot be a
reliable witness as I am an unhappy and/or
bitter spouse going through a divorce and that
as a result, my evidence were only serve my
bitter purpose to seek to get to Mr Gigaba...”

And you say at paragraph 9:

“This narrative and/or suggestion cannot be
further from the truth.

I wish to demonstrate this point by providing a
chronology of events...”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC: Could you take us through that
chronology of events, please?

20 **MS GIGABA:** So must I read it from 9.1?

ADV MYBURGH SC: You can read it or you can narrate it
for us.

MS GIGABA: Okay. So what happened in 2020 earlier –
last year, I went to Mr Gigaba. I told him that I want to – I
want a divorce, which then he said why I want a divorce.

So I explained the reasons why I wanted the divorce. So I have my personal reasons why I was not happy in the marriage and I think he was comfortable with us to get a divorce and also it was good for our kid to grow up in a positive environment.

So then he said he does not – he is not ready for a divorce because he was busy preparing for the State Capture and also he was busy doing his submissions for his PhD and thirdly he said he was not ready for a divorce
10 at all because he had a lot of distractions because he had to focus on preparing for the state capture. So then he agreed ...[intervenes]

CHAIRPERSON: I am sorry. Because he had to focus on?

MS GIGABA: Preparing for the state capture.

CHAIRPERSON: Oh, okay.

MS GIGABA: So then he agreed to – he asked me give him time and I agreed to that.

ADV MYBURGH SC: Yes?

MS GIGABA: So then we continue that. So he came
20 again to me, I think it was later in the middle of the year also last year. He asked me – he was like there was someone at home who is an expert in IT. He was asking for my gadgets, my cell phones. Someone is wiping the information for us. So I asked: Why is someone wiping the information for us?

So then he made an example. Because he said he was about to finish to wrap up his evidence to the state capture but now he is worried that based on the information that I have. So he made an example about Brian Molefe. So he said to me: It is because you were – as a family we are close to Guy(?). So that is why it was easy maybe for him make an example about Guy.

So he said to me there was a time – there was an investigation about Brian Molefe. He said he went to
10 the Gupta house – and then when there was an investigation, the investigation showed that he went to the President(?) compounds(?) more than two or three times. So he said he does not want that to happen to him because he want to say he was there two or three times.

So I said to him: Why do you not tell the truth? Why do you not go to the Commission and give the truth so that you do not have to say things and cover them up? He said he does not want to. So I said: Okay. Unfortunately, I will not be able to give you my devices. Because for me I
20 do not understand why he does not want to tell the truth. I even reminded him because I remember in Parliament, I think it was in 2017 because he resigned in 2018.

I think it was EFF, they asked him how many times he has been there. He said he does not call but two or three times. And I remember him on that – I remember

then the evening I was asking him: Why you said you were there three times? Because we were always ...[indistinct – word cut] time, so he did not want to answer me on that day. So when he said the person was there to delete then I said I do not want to do that and then it ended there on that day, I did not give him my gadget and then – so I think a few weeks on the ...[intervenes]

ADV MYBURGH SC: Please would you speak into the microphone so I can hear you?

10 **MS GIGABA:** Sorry. So then I refused to give him my gadgets because for me I felt like why he must delete the information? So I thought it was easier for him to come to the Commission to tell the truth so that we do not have to come up and come up. And also, I asked him the other thing, I was like why we cannot divorce just because you are going to the Commission because I did understand how I get involved with the Commission because Commission has never called me – there is nothing that involves me with any [indistinct] or with his work because I have never
20 worked for government.

So then he explained that if we divorce he is going to – we are going to lose a spousal privilege, so he want to go to the Commission while he was still married. So that brought to confusion to me but I said to him I do not want to give my gadget and it ended there. And he was a bit

annoyed. So he went back – so that expert was in his study room, so I think they spoke, the guy left.

A week or two weeks later that is where everything started and then it was the arrest, where I got arrested. So the Hawks came to our home because I sent a Whatsapp to Malusi's friend. So Malusi called me at home, he said the police are calling me, so I went downstairs at home and they said they want to all gadgets. So I asked them why you want all my gadgets? They said they want
10 all my gadgets because I sent a Whatsapp message to Malusi's friend and then I said okay, I was carrying a phone but not this one, the one before this upgrade. So I said to them okay, here is the phone that I used but I deleted the message. So they said they need to take the phone, I said there is no problem but this is the phone that I use, you can take it. They said no, we want all your gadgets and we need to go with you upstairs because we know that all your gadgets are upstairs. So I said okay, I am coming back. They said no, I am not allowed to go on
20 my own, they had to come with me.

So ion the time we all went – before we go upstairs then I said I want to go to the bathroom and then they refused, they said I am not allowed to go on my own. Then I begged them that can I go to the bathroom? So then one police – I do not know, must I mention their names or I

must not? I can? I do not know must I mention their names or not?

CHAIRPERSON: Ja. Mr Myburgh?

ADV MYBURGH SC: I do not have any difficulty but, Ms Gigaba, perhaps you could just speak to your affidavit?

MS GIGABA: Okay.

ADV MYBURGH SC: If you do not mind.

CHAIRPERSON: Yes.

MS GIGABA: So what happened then I went
10 ...[intervenes]

ADV MYBURGH SC: So what paragraph are you on now?

MS GIGABA: Sorry?

ADV MYBURGH SC: What paragraph are you dealing with now?

MS GIGABA: I am 9.4.

ADV MYBURGH SC: 9.4?

MS GIGABA: Yes.

CHAIRPERSON: Yes, ja, continue?

MS GIGABA: Okay. So I went ...[intervenes]

20 **CHAIRPERSON:** Yes, one of the police officers
...[intervenes]

MS GIGABA: I am reading that but it is like I prefer to talk because everything that I am saying is what is here, that I am to read?

CHAIRPERSON: No, that is fine, you – I think what Mr

Myburgh – he just wants to know how much you have covered.

MS GIGABA: Yes. Okay, ja, I am ...[intervenes]

CHAIRPERSON: He is not saying do not speak.

MS GIGABA: Oh, okay.

CHAIRPERSON: Ja, you can speak and ...[intervenes]

MS GIGABA: So what happened, Sir, they went upstairs with me. My kids were there with me, so we all went upstairs. Then we went to my bedroom. So then they said
10 they want my iPad. So then I said I have not used my iPad for two years because I used to use where I used to work. So then they said they want it and they also told that they want my laptop. Then I gave them my laptop. And then they asked me where is my Huawei phone? I was just shocked because I did not tell them that I have a Huawei phone. So they told me where is my Huawei phone? So then I went with them in my walking in closet which – that is my bedroom, then you go in closer to the bedroom. So the police came with me, then I took the Huawei phone,
20 then I gave it to them. So they took all my phones and all of this, we went downstairs.

So when we were downstairs they asked me to put my phones at the centre of the table. They said they have to check all my gadgets, they have to leave with them. So then I asked them why all my gadgets need to be taken for

a Whatsapp message and I am not denying that I sent a message and here is the phone that I used so why all the gadgets and especially the laptop? And I even told them that I was using my laptop for school because I was writing exams at that time so can they have it – so they refused, they said they have to take everything.

Then I asked them can I call a lawyer? They said I am not allowed to call a lawyer. Then I said I know that right, it is in every person in South Africa, you have a right
10 to call a lawyer. They said that right only remains with SAPS, not with the Hawks, they are the Hawks, so I do not have that right, so which they refused for me to call the lawyer because I wanted to call the lawyer to ask why my gadgets were taken by the Hawks.

So after that they asked me – so one of them were sitting on my right hand side, other one was sitting on my left side, in my left hand side, and then they – so this one on the right she said to me I need to put all my passwords and my pins and they want to make sure that my gadgets
20 are working and firstly, we had an argument because I said no, why I have to give you my gadgets because if you are doing an investigation you can take the gadgets because I work in the IT industry, you can take the gadgets, you put them on the machine, you can able to download everything, I do not have to give you my password and my pins. So

they said I need to cooperate with them because if I do not I am going to be arrested by that time.

So I still wanted to argue with them but I look at my son, my son was behind me, because he was crying, I look at him then I was like let me just not fight because I do not want my son to see this, let me just give them my gadgets.

So then we started – I give them my pass code, which they put, they wanted my pin, they put them, we went through each and every gadget, they wanted to make
10 sure, they wrote on the paper, all my pins and everything and then after that they took all my gadgets, five of them, they put them in the plastic and then – so after that they said oh, we are here, we heard there was a scratching of the car in the house. So the minute they say that, they said oh, we need to take the gadgets we are investigating something in the house so we are going. So which they left with my gadgets on the day, all of them.

Then after that I asked the helper to me the phone, I called a friend of mine who is a lawyer, I told him the
20 whole story said no, it is a lie, Hawks and SAPS everyone in the country, you have a right to call the lawyer and also they are not supposed to take my gadgets just because I sent a Whatsapp or even if there was a scratched car at home and that – it was that they left.

I went to Malusi upstairs, he was sitting upstairs,

then I told him that these people they took my phone, why they are taking my gadgets? Malusi said to me just let the police do their job. I was like why the police are doing their job, why all that because I was just confused, what have I done wrong and they left with my gadgets.

The whole week – so the whole week I kept on asking him because I was writing exams and that time we were on I think level 4, level 3, I was doing online clusters and I need to submit my exams and then I had nothing to
10 use and I could not go to study at my friends place because that time we were not allowed to visit. But Malusi kept on telling me that no, the police are working, they will bring back my stuff.

And then the week ended, the second week I went to – I called a friend of mine again, I asked her can you please get me a lawyer, I want to open a case because my gadgets are not back yet and I do not understand, Malusi keep on saying no, they are coming back. So then he said he is going to call the General – I think the Brigadier,
20 which is Brigadier Ngwenya, those police who came they are reporting to him. Malusi said he is going to call him to bring back my gadgets and then I asked him two hours later, I said what did he say? So he said no, he cannot call him, you need to go meet him because the Intelligence is linked to them and their phone.

CHAIRPERSON: And ultimately when did they bring them back or did they not bring them back?

MS GIGABA: My gadgets were brought back, they did not – they only brought back my gadgets after I was arrested, that was two weeks later.

CHAIRPERSON: And when they came back was the information that – was the information still there that ...[intervenes]

MS GIGABA: A lot of information was not on my gadgets.
10 So the kind of information that was deleted on my gadgets – because the day I got arrested I said to Malusi in the morning if the police are not here today to bring my gadgets because I have been waiting for you, I went to see a lawyer and my lawyer- we are going to go open the case. If they are not here by 2 p.m. I am opening a case and you will explain that because I had everything that now this was unlawful, was not supposed to happen.

So on that date we waited, Malusi said no, they are on the way, then he said I am going to help you with my
20 own computer. So Malusi was typing my assignment, then I was writing my other assignment, so which was two assignments I was doing at the same time because I was a bit behind but the school understood. So what happened on that day, while I was waiting for them to bring my gadgets came in the room, he said the police are here

looking for you. I jumped quickly and I was so excited, I thought they were bringing my gadgets. So when I got there they said you are under arrest, we need to arrest now. I said what have I done. They said you are under arrest and then I asked them that can I go change? So they said I am not allowed to go alone, so they went with me, then I changed then I got arrested on that day. And then ...[intervenes]

CHAIRPERSON: And that was not the day they brought
10 back your gadgets?

MS GIGABA: No.

CHAIRPERSON: And how long after did they bring back
your ...[intervenes]

MS GIGABA: They were brought back three days later on Tuesday because I got arrested on Friday, the 31 July. So I could not get a bail on the day because when the Hawks arrested me they switch off their phones and also they were nowhere to be found and they left the police station with the docket.

20 **CHAIRPERSON:** Once the gadgets were bad were you able to establish whether the kind of information that you say Mr Gigaba had said he wanted to be deleted was still there or not?

MS GIGABA: Because – so I went on my phone on Tuesday after appearing in court on Monday, so on

Tuesday we went to fetch my gadgets at the police station. Then I started opening all of them. Then what I found out, everything Malusi, when he explained, when he said what we need to delete everything that related to the Guptas and to the trips that we had taken as a family, to the car that was bought by the Guptas. So then I started paging to check. So they did not delete everything, all my data, but what was deleted, it is all our trips that we did to Dubai that the Guptas paid for us and it was all the pictures of
10 the car that was given as a gift to him and also it was a picture that I took in Sun City at their wedding, at the Gupta wedding. So most of – all the information it was related to that. So everything was deleted.

CHAIRPERSON: Okay. Mr Myburgh?

ADV MYBURGH SC: Yes, thank you. So to carry on with the chronology, at paragraph 9.5 you say that:

“Following this, in or about August 2020, I learnt from the newspapers the announcement of divorce proceedings being instituted by Mr Gigaba. The
20 summons was only served on me in September 2020.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC:

“What I want to say that only on 17 December 2020

did I conduct a television interview with the eNCA after which I was immediately contacted by the Commission on 18 December 2010.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: So do I understand correctly from what you have told the Chairperson that you were arrested on the 31 July 2020, is that correct?

MS GIGABA: Yes.

10 **ADV MYBURGH SC:** At paragraph 9.7, continuing with the chronology, you say:

“In or about January 2021 discussions on settlement ensued between me and Mr Gigaba, as is normal in divorce matters and with the principal aim of avoiding a long and protracted process of divorce.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: You go on to say that:

20 “This is when the allegations of supposed extortion starting flying around. I must indicate that I am totally astonished at the utter suggestion that I would seek to blackmail or extort Mr Gigaba in any form of settlement in respect of the divorce or into any form. As a matter of fact I remained shocked

as to what it is I would be seeking to achieve by such conduct. I say this for the following reasons:

1. The house we live in is a rented house.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“2. We are married out of community-of-property.”

Is that correct?

10 **MS GIGABA:** Yes, it is correct.

ADV MYBURGH SC:

“3. The other house that Mr Gigaba owns, there is still a huge amount owed to the bank in respect of the bond.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“4 The entire furniture in the house that we live in belongs to me.”

20 Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC:

“5. I am no state or have any intention to fight with Mr Gigaba as we have two minor children together whom I had even proposed

to leave with Mr Gigaba to avoid any further confrontation and dispute related to our divorce and so as to expedite it.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: And:

“6. As confirmed in a letter from my attorneys to the Commission there are no ongoing settlement discussions between the parties. It is therefore not clear what I stand to gain by assisting the Commission.”

10

Do you confirm all of that?

MS GIGABA: Yes, it is true.

ADV MYBURGH SC: Then you go on to say:

“I ought to highlight that the proposal I was making to Mr Gigaba was that we should agree on the issue so that we can both move on with our respective lives. Indeed the settlement discussions which were even escalated to our respective attorneys yielded no fruits and were accordingly abandoned.”

20

Is that right?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: And then you go on to deal with the High Court proceedings in respect of your arrest. You say:

“On 11 February 2021 the High Court in the matter

pertaining to my unlawful arrest by the Hawks, handed down judgment in my favour.”

Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: And then at 11:

“On 6 March 2021 I failed an affidavit with the Commission which forms the basis of this supplementary affidavit.”

That is your main affidavit, is that correct?

10 **MS GIGABA:** Yes.

ADV MYBURGH SC:

“And on the 26 March the NPA withdrew criminal charges against me which were related to my unlawful and malicious arrest at the instance of Mr Gigaba and his friend.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC: And at paragraph 10 you say:

20 “I lay out the above chronology to demonstrate to this Commission that the suggestion that I was a bitter spouse attempting to get to Mr Gigaba through this Commission is not only malicious in the very least but is misleading on the real issues before this Commission.”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: Paragraph 11:

10 “The suggestion by Mr Gigaba that his application was made so that he can shield our children from our squabbles before court flies on the face of truth. After all, it is not Mr Gigaba who was the complainant in the criminal case against me. Where, one would ask, was the consideration at the time to shield our minor children from the numerous appearances I was forced to make in the Magistrate’s Court before the withdrawal of the charge which appearances were solely occasioned by him.”

So there you are talking about, as I understand it, your unlawful arrest.

MS GIGABA: Yes.

ADV MYBURGH SC: And what you had to go through in the process.

MS GIGABA: Yes.

20 **ADV MYBURGH SC:** At 12:

“I need to clarify that when I originally sought divorce from Mr Gigaba it was never out of bitterness hence my agreement to not proceed with same at the time after he had requested me not to. To suggest this now, conveniently so, is in my

respectful view quite absurd in the very least.”

And then you conclude:

“As repeatedly explained in the media and in my testimony, my sole reason for assisting the Commission is the performance of my civic duties as a citizen of South Africa who is willing to provide any information to which I may be privy and which can rid our society of the cancer of corruption, would like my children to grow up in a corrupt-free society. I bear no grudges against anyone and I have long forgiven those who wronged me. They will be judged not by me but by God.”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: Do you have anything you wish to add to this affidavit?

MS GIGABA: I am fine.

ADV MYBURGH SC: Alright. Now, Ms Gigaba, I am going to come back at the end of your evidence this evening to some of the things that you say at the beginning of the affidavit in relation to the Commission. I will also in the process take you through an affidavit that has been filed and deposed to Sakhile Masuku, who you find right at the end of your exhibit but for now what I want to do is to take you through Mr Gigaba’s evidence and put it to you and

ask for your comment.

Chairperson, what we have done, perhaps in a slightly unorthodox way, we have got two affidavits. I have asked my secretary to cut and paste them into a schedule. So what you will find on the left hand side is Ms Gigaba's affidavit, and I will hand it up now, and on the right hand side Mr Gigaba's affidavit. It is a much easier way of finding what is in dispute and getting Ms Gigaba's comment.

10 **CHAIRPERSON:** Ja, not that is fine.

ADV MYBURGH SC: But I do not know if it has to be given any particular number, it is just an aid to presenting evidence.

CHAIRPERSON: No.

ADV MYBURGH SC: When I refer to paragraph numbers it is of course to the numbers as you see there in the respective affidavits.

CHAIRPERSON: Well, I do not know – as far as I am concerned it does not have to be admitted, as such.

20 **ADV MYBURGH SC:** Yes.

CHAIRPERSON: But it is fine as a matter of convenience.

ADV MYBURGH SC: Yes. So Chairperson, if I could just then confirm for the record that on the left hand side there is a reproduction of Ms Gigaba's main affidavit, that is the one that that you find commencing at page 999.

CHAIRPERSON: Okay.

ADV MYBURGH SC: On the right hand side is a reproduction of Mr Gigaba's affidavit and that is the affidavit that he filed in support of his application.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Which was indexed as SEQ18.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Of 2021. Ms Gigaba, you have a copy of this schedule, do you?

10 **MS GIGABA:** Yes I do.

ADV MYBURGH SC: Alright. I want to start off by taking you please to paragraph 13 of your affidavit and that you see at page 4 of the schedule. Are you there?

MS GIGABA: Yes.

ADV MYBURGH SC: And what you say at paragraph 13 is that about a month or two before Mr Gigaba took up the position of Minister of DPE he told you that he had been told of that move by Ajay Gupta. Do you recall giving that evidence?

20 **MS GIGABA:** Yes.

ADV MYBURGH SC: Now what Mr ...[intervenes]

CHAIRPERSON: I note, Mr Myburgh, that in the document it says about two to three months rather than one or two.

ADV MYBURGH SC: Sorry, I beg your pardon, two to three months before. Thank you, Chairperson. So you

recall giving that evidence?

MS GIGABA: Yes.

ADV MYBURGH SC: At paragraph 35, this is then on the right hand side, Mr Gigaba says:

“The contents of this paragraph are pure unsubstantiated speculation and are inserted to embarrass and prejudice me.”

And then he goes on to set out his version where he says that he was told on the 31 October by the President that he
10 was going to be appointed as the Minister DPE and sworn in the next day. In short what he says is I got no advance notice, I did not know of this before and what you are saying is unsubstantiated speculation. Do you want to comment on that?

MS GIGABA: So it is not true that he did not know, he only heard on the day. He told me two to three months before and also – because he was very excited about the position. I asked him what does it mean to be a Minister of DPE because that kind of portfolio I was not familiar with.
20 So then he explained to me that DPE means Public Enterprises and then he explained to me that he is going to be overseeing all the SOEs. He explained with so much of excitement. So I think to - three and half to three months before he got his appointment, so it is not true what he is saying that he knew only on that day.

ADV MYBURGH SC: Could I take you to paragraph 14 of your affidavit? You say there that:

“Mr Gigaba’s visits to his advisers became more regular when he came the Minister of the DPE, often more than once a week. When I requested him as to whether these were his official advisers he then told me that the Guptas were his unofficial advisers who would advise him in respect of decisions to be made at work and in return he assisted them with certain things.”

Mr Gigaba’s response says:

“The contents here are again a deliberate fabrication not based on fact. At this point in time I had known Nomachule for approximately a year. We were not even living together and she would only on occasion come and visit me at my home and we would go out socially. It is absurd to think in these circumstances I would have treated Nomachule almost as an adviser of mine keeping her abreast of my movements as a Minister.”

And then he goes on to say at 42:

“As a Minister DPE I was entitled to two advisers. I also had top management of the department to advise me on matters. In these circumstances why on earth would I have required the Guptas to be my

special advisers?”

Do you want to comment on that?

MS GIGABA: It was not true that I was not staying in Pretoria at that time, I moved to Pretoria when I was pregnant and when Malusi became the Minister of Public Enterprises we were already staying together and when it comes to this thing of special advisers, it was him who told me that the Guptas were his special advisers and I remember in the beginning I used to get confused when he
10 talks about special advisers, who are the advisers, because sometimes he will say I am seeing my advisers and then I see Thami Msomi, something he was saying I am seeing my advisers, I am going to Jo’burg and I knew that Thami was staying in Pretoria, then I would like who are the advisers that you are talking about? So every time when he will talk I will always want him to make it clear who is he talking about. So it is not true that he never had one.

ADV MYBURGH SC: Then at paragraph 15 you say in
20 your affidavit:

“In 2011 during his tenure as Minister of the DPE I became unhappy with the little that Mr Gigaba was spending with our children because of his frequent evening visits to his advisers. Mr Gigaba told me that it was important for him to meet his advisers,

he told me that he would need to take work decisions on the day after his visits to them, he told me that they are responsible for the decisions at work. He explained to me that as things were happening at work he needed to report to his advisers.”

Now again Mr Gigaba denies this and I just want to draw your attention please to paragraph 45 of his affidavit where he says:

10 “To suggest that Nomachule became unhappy with the little that Mr Gigaba was spending with our children because of his frequent evening visits to his advisers when we only had one child who was a newborn demonstrates the lengths she is prepared to go to mislead.”

Do you want to comment on that?

MS GIGABA: It is irrelevant that he is arguing about the children, it is mistake that I said our children, I said our child because Malusi was hardly at home, most of the time
20 when he arrived from Cape Town he will just go – he will say now I am rushing to the [indistinct] all the time and then he knew that our son was very sick at the time, I needed him to be at home. So this is not true.

ADV MYBURGH SC: Alright. Do you accept that should have read child and not children?

MS GIGABA: Yes, we had one child in 2011.

ADV MYBURGH SC: And then I would like your comment on the last sentence of his paragraph 45:

“I also posed the question how would she have knowledge of these alleged visits?”

How did you have knowledge of the alleged visits?

MS GIGABA: Because he told me. So he is the one who used to tell me that where is he going and he will explain when I asked him where are you going, who are you
10 meeting then he used to explain it to me.

ADV MYBURGH SC: Right. And then your paragraph 16, this is where you deal with the frequency with which Mr Gigaba visited the Guptas and you explain the frequency when parliament was sitting and then the frequency when in recess. Mr Gigaba at paragraph 48 says:

“This is a total fabrication, it is not based on any personal knowledge on the part of Nomachule. It
beggars belief that every time I went to parliament I would first rush off to meet the Guptas and then on
20 my return report back to them.”

How did you know, on your version, how often Mr Gigaba was going to the Guptas?

MS GIGABA: In my knowledge he used to go there a lot. It is not true that he went there maybe one time.

ADV MYBURGH SC: My question is how did you know?

MS GIGABA: He told me.

ADV MYBURGH SC: I see. What would he typically tell you.

MS GIGABA: He will tell me that he is going to see his advisors or he will say he is going to see AJ and there were times where he will go there with his bodyguards without me and there were times he will ask me to go with him. So we were forever – most of the time we were forever there.

10 **ADV MYBURGH SC:** When we deal with... [intervenes]

CHAIRPERSON: I am sorry. Are you able to give an indication of about how many times he may have gone there with you over the period, leaving out occasions when he told you that he had been there but you were to rely on his word, you were not there to see whether he was indeed there. So but the times when you were there with him at the Gupta residence, are you able to say – given an indication?

20 **MS GIGABA:** I can say an estimation because I do not know exactly the number, but I know it is more than 20 times. It is a lie that it was four or three times, because we used to go there when Malusi had meetings, then I would sit and wait for him to finish meetings and sometimes we will go there for lunch where we would just sit with AJ with their son and also with the wife.

There will be times where we will just go, because Diwali – only on one Diwali. So when Malusi is saying we used to go there for events we only attended to events in the 10 years that I am with him. So most of the time it was – it is either lunch or his meetings, but we used to go there very often together.

CHAIRPERSON: So and that would span from when to when in terms of years when you say about 20 times? That is from 20 what, 2011, 2013, 2014 up to when?

10 **MS GIGABA:** So from 2011 I did not go there a lot myself because I had a little baby as well as 2012 I did not go that much, so but he used to go. Then sometimes we will go with the child when they want to see the child.

CHAIRPERSON: Your first time that you went there would have been which year?

MS GIGABA: I mean, this was 2011 when AJ wanted to see my son.

CHAIRPERSON: Okay, alright. And the last time when you went there would be?

20 **MS GIGABA:** I do not remember when was it, but it was when Malusi was taken back to Home Affairs. By that time they were not that close anymore.

CHAIRPERSON: But you cannot remember which year, but whatever year it was, it was the year when he was [indistinct] back to Home Affairs.

MS GIGABA: Yes.

CHAIRPERSON: Okay, alright. And when you say 20 times, about 20 times, I accept that you are estimating.

MS GIGABA: Ja, I am not saying exactly it was 20. I think it was more than that.

CHAIRPERSON: But if somebody said no, maybe 10 times would that... [intervenes]

MS GIGABA: No, 10 times it is not.

CHAIRPERSON: 10 times it is not.

10 **MS GIGABA:** It is 10 times less, ja.

CHAIRPERSON: It is more than that.

MS GIGABA: It is more than that.

CHAIRPERSON: So even if you are mistaken about 20 times, it cannot be 10 times or less.

MS GIGABA: It cannot be 10 times. It is either from 20 upwards.

CHAIRPERSON: Yes.

MS GIGABA: Because we were frequently there.

CHAIRPERSON: Yes. Okay, alright. Mr Myburgh.

20 **ADV MYBURGH SC:** Thank you. Now let us deal with paragraphs 17 and 18 of your affidavit. Chairperson, the reason for the grey shading here is you will see that Mr Gigaba responds to a series of paragraphs and so when the grey shading is repeated it is the same answer, but it is in relation to a different one of those paragraphs.

CHAIRPERSON: No, that is fine.

ADV MYBURGH SC: So to summarise your paragraphs 17 and 18, you say that I first met his advisors and learnt of the identity during 2011. I think you have just said that to the Chairperson. When Mr Gigaba still held the position of DPE and you go on to mention that during late 2011 Mr Gigaba told you that his advisors wanted to meet you and your eldest son who had been born in June that year and you go on to explain that you then attended upon the
10 Gupta residence, that you met with AJ Gupta, his wife and their son and that AJ Gupta gifted your son a gold jewellery necklace.

And then at 17.2 by way of summary you say in 2012 you visited the Gupta residence on several occasions and at sub 3:

“After I met the Guptas Mr Gigaba would tell me that he is either going to meet my advisors or AJ.”

And then at 18 you say:

20 “A few months after my second son was born, that being in December 2012, I visited the Guptas in their residence upon invitation of Mr Gigaba, informing that the Guptas would like to meet our second child.”

Do you confirm that?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: Now, Mr Gigaba says:

“This is a total untruth. Why would the Guptas insist on meeting a new born child? I do however recall that our eldest son after his birth received a gold necklace as a gift from AJ Gupta.”

Do you want to respond to the denial that you and Mr Gigaba took your eldest son to meet AJ Gupta?

MS GIGABA: I do not understand why he is denying that, because when we got there AJ was so excited to see him.

10 The minute he held our son he gave him the gift. It was in a box, then he took it out, he put it into my son and then Malusi took it out, then he put it back on the box and he carried it. So if they are not that close, why would AJ want to gift our son with a necklace, because he does not even know it is a boy or girl if he does not know.

So I think this is a lie. So I do not even understand why he would, because they gave him the necklace and they wanted to see him when he was still small and I was asking why they want to see our children – our child. But
20 that he was denying it, but it is true, so it happened.

ADV MYBURGH SC: I would ask you to go to paragraph 51 of Mr Gigaba’s response or affidavit. He says:

“I do not believe...

And this goes to the Chairperson’s questioning of you a

little earlier.

“I do not believe that Nomachule met the Guptas on more than four occasions when we attended social functions such as the Sun City wedding, Diwali celebrations and a cultural luncheon at their invitation. Any other suggestion on her part are total untruths.”

So he is putting it at you having met them four times. These were social occasions or functions. One, Sun City
10 wedding, two, Diwali and he also lists a luncheon. Do you want to comment on that?

MS GIGABA: I remember in my statement what is not true we never attended so many events there. Most of when we went there it was meetings and also I only attended one Diwali at the Guptas’ house and I only attended one event. So it was not like we will go there because of events.

There were less events in my knowledge. So most of the time when we were there it was meetings between Malusi and AJ and sometimes it will be his advisors will be
20 there and Malusi will be taken in a room. That is what used to happen and I still remain by my statement.

ADV MYBURGH SC: Then at paragraph 54 he says:

“I deny frequent visits with the Guptas or indeed discussing such visits with Nomachule.”

Do you have anything to add to that?

MS GIGABA: Also I still remain by my statement. I do not understand why Malusi is saying we did not frequent visit there because we used to go. But not only he used to go there by me alone, there were times where he will go with his protectors. There was even time when he would not go with the whole protection cars, because he had two cars.

Sometimes he will ask one of the bodyguards because he was close to one of them, he will ask him, Chief, can you please take me there. And I remember most
10 of the time when that bodyguard used to come he will say, okay, I want to sign first at the gate and Malusi will call him, rush him not to sign because he says you need to rush, there is something they need to fix with AJ. So they will just go.

So when they come back, then the bodyguard will want to go – there is a house, a small house that was closer to our house where there is Police and then he will like – I want to go there, because when I arrive I did not sign. Then Malusi is like, no Chief, go, we will sort that
20 out and then the bodyguard will leave.

So it was if I can count his with the bodyguard, because sometimes he will go one bodyguard or he will go with a whole entourage and we will go all of us, that is so many times. So it is not true that Malusi was there two or three times.

ADV MYBURGH SC: No, that is not what he is saying, Ms Gigaba. He is saying you met the Guptas four times.

MS GIGABA: That is not true.

ADV MYBURGH SC: You have told DCJ that you went there more than 20 times.

MS GIGABA: Yes.

ADV MYBURGH SC: You have also – we know you went to the Sun City wedding. You have said you went to a Diwali celebration. Did you also attend a cultural luncheon
10 at the Guptas?

MS GIGABA: I do not know what is cultural luncheon.

ADV MYBURGH SC: Lunch. Did you go to a lunch at the Guptas?

MS GIGABA: But not like a cultural thing. We will have lunch as us, AJ and his wife and my son and their son, but it was not like a cultural thing.

ADV MYBURGH SC: Right. So if you can go to paragraph 19 then of your affidavit. This is where you deal with your visit to the Waterkloof Air force Base. Now at
20 paragraphs 19 and 20 we know that you have corrected. You make the point that you went there a day or two before the wedding and then on the day of the wedding you went to Sun City. But in relation to your attendance at Waterkloof at paragraph 55 on the right hand side, Mr Gigaba says:

“The contents hereof are denied. Nomachule is deliberately trying to link me to the infamous Waterkloof Base landing. Not a single person or report has linked me to the Waterkloof Base landing. I had nothing to do with the landing at the Waterkloof Base. I had no knowledge of these visitors from India who were attending the wedding. I also had no authority over the Waterkloof Air force Base. The suggestion is simply outrageous and demonstrates the lengths to which Nomachule is prepared to go.”

What is your comment on that?

MS GIGABA: This one I still remain by my statement which Malusi is not telling the truth. Myself and our son that evening when their – what is it – their aircraft landed, so Malusi said to me at home let us go there, he has been asked. So I did not ask who asked him to go receive the people. So he will ask can you please go with me and we went there.

20 So what happened, myself and our son, the older one, we sat in the room and then Malusi went out to receive the Gupta people coming in for the wedding. So it was not only us, because outside there were a lot of Metro Police cars who were coming to receive them as well, but they were outside. So me and my son remain inside.

Malusi went out. I did not know what he did on them. So they landed and they were taken by cars.

So when they were leaving, then Malusi we went to our car going home and there were a lot of Metro Police like escorting the Gupta cars leaving and then we went home. So for me it does not even make sense why he want to protect the Guptas because we were there. I do not even know why he wants to protect that, why he say it was a lie, because we did it. We were there. We received
10 them.

ADV MYBURGH SC: Now, paragraph 56 on the right hand side, Mr Gigaba responds to your version of the wedding and the removal of the henna pattern, etcetera. He says this is nonsense and in the last sentence of that paragraph 56 he says:

“I refused the invitation to stay over at Sun City.”

Do you want to comment on that?

MS GIGABA: He did not refuse. He forced us to leave, because they booked us the house. So on the following
20 day I did not know that we are going to go to the wedding. I did not know that also we were invited on the wedding. So on the wedding day I was at work. Malusi called me that I had to accompany him to go to Sun City.

So then I said to him, no, he must leave me, I cannot go because I have not done my hair, everything. I

just cannot go to the wedding. I do not even have an outfit. Then he was like no, we need to go, let us go. So please come back home.

So then I left work. I think it was around 13:00, then I went home. Then I packed whatever I had. Then he said we are going to sleep over. We will come back the following day. So when we arrived in Sun City there were a lot of people who were there for the wedding and the other people were coming from India. Then AJ was busy
10 introducing us to those people, but it was like everyone was mingling.

And then I saw people doing like a henna, because I have never done that before. So I joined. I said to him I am coming back. So I did the drawing of the henna and then by 21:00, 22:00 we went to a room. Malusi said he is tired. Then we wanted to go rest in the room because we were supposed to sleep there going back.

I think by 12:00 midnight Malusi said we need to leave and also he said he received a call, he was shouting
20 at me like why I posted the henna on Facebook. I said I did not know that I should not have posted it and then he said I must go on my Facebook and delete the henna, because now there is a lot of noise about us attending the wedding.

So I went on my Facebook, I deleted the henna.

Then after that Malusi said let us take our bags, we need to go back home, we are not sleeping. So it is not true that he refused to stay in Sun City. He was forced by that, then we had to leave. So we drove back at night with the bodyguards, came back to Pretoria.

ADV MYBURGH SC: Just to pick up on that, at paragraph 58 of his affidavit Mr Gigaba said:

10 “I deny that I asked her to remove the photo of the henna pattern on her hand off Facebook. Why would I have asked her to remove it when our attendance at the wedding was all over television and social media. The fact that I attended there would have been documented.”

Do you want to comment on that?

MS GIGABA: Malusi was not aware that our attendance was going to be on the news and there will be noise about it. He did not know. So when that happened he panicked, then he said I must delete it and then also he said let us go home.

20 So if the way he is saying like he knew that everything will be documented, so why we packed our clothes and why the room was booked, then all of a sudden why we have to drive in the middle of the night going back home. So he was not aware that such a thing will happen.

ADV MYBURGH SC: Alright. If we go to your

paragraph 22, that is where you described what happened, the procedure that was followed when you visited the Gupta residence. You talked about turning in your cell phone. You talked about a briefing by Mr Gupta and then meetings being held in an adjacent room. I just want to ask you to comment on paragraph 60. Mr Gigaba says:

10 “I deny that we were requested to hand over cell phones. It is absurd to suggest that one would be requested to hand over cell phones when attending a private event and even more absurd that Nomachule’s cell phone was simply returned to her when she got bored.”

Do you want to comment on that?

MS GIGABA: So also that is not true and I even asked him so many times why we had to leave our cell phones, because there is a – when you come in there was a table, I think two tables before you go proceed to a big living room where they used to leave me and AJ where he used to come and brief Malusi there before they go to another room
20 that was opposite where he used to leave me.

So before when we go in they used to ask us to leave our phones. And then the other day I asked him why they always take my phone because the whole hour – because those meetings used to last like an hour and half and then I am sitting there by myself and Malusi is there in

the meeting and I am bored. So I asked him why our phones. So he said there was confidential information which we are not allowed to have our phones with us.

But most of the time I used to go, maybe five minutes later I used to go take my phone and sit down with it and Malusi never liked those things. So it is a lie when he said our cell phones were not taken. It is him who knows what was confidential, but I did not know what was confidential. But that is not true. And also I do not even
10 understand why he keep on protecting or covering the Guptas, because that was the procedure that was happening there.

ADV MYBURGH SC: At paragraph 61, the second sentence he says:

“It is a total fabrication to suggest that I was then ushered into a private meeting room after being briefed by Mr AJ Gupta.”

What do you say to that? So he denies that he was ushered into a private meeting room after being briefed by
20 Mr AJ Gupta.

MS GIGABA: So also this is not true. So every time we used to arrive and it happens most of the time we go there. So when we go there is someone who will take us outside and then they will ask us to leave our phones, then they will take us in a room. So maybe like five minutes or so

then AJ used to come and greet us, maybe just like make a few little jokes or sometimes we will wait for tea or something and then AJ will sit next to Malusi while I am there and then he will brief him about something about what that meeting.

So there are times where Tami [?] would be there, which works in his office or sometimes Siyabonga Mahlangu will be there also and they will be waiting with him and they will go with Malusi into a room. So I do not
10 understand why he is saying that never happened, because we never been received by AJ from the door. We were always received by other people and AJ will always come while we are sitting and AJ will brief Malusi so that he know what the meeting is about and they were taken in.

So that was the normal procedure, unless it is not a meeting, it is a lunch, we go, we are chilling, we are sitting there, then they would not take him to a meeting. So that was the normal procedure in that home.

ADV MYBURGH SC: He says at paragraph 62:

20 “I deny that on these occasions Mr Mahlangu and Mr Msomi were present and would attend meetings with me.”

What do you say to that?

MS GIGABA: They were there.

ADV MYBURGH SC: Alright. Then if I can take you to

paragraph 25 and this again deals with the briefing by Mr AJ Gupta of Mr Gigaba and you set out in paragraph 25 the various things that you overheard during those briefings. What Mr Gigaba says in response at paragraph 63 is that:

10 “The contents hereof are emphatically denied. Her version that on the one hand there were these clandestine meetings where cell phones had to be handed over and yet on the other prior to the meeting commencing Nomachule was privy to an entire briefing session where the purpose of the meeting was disclosed in her presence is so improbable as to warrant outright rejection.”

What do you say to that? So he rejects outright your version that there were these briefing sessions in your presence.

MS GIGABA: AJ used to brief Malusi in front of me and then they will go there. So the entire meeting never happened in front of me because AJ used to take him
20 inside that room where they used to have meetings.

ADV MYBURGH SC: He says at paragraph 65 that:

“A lot of what is described here are matters that have been in the media for a number of years and would account for Nomachule’s knowledge thereof. I deny that during my 10 years as Minister of DPE I

ever intended or indeed travelled to India...”
etcetera.

What do you say about the contention that what you say he was briefed about were things that had been in the media for many years? You are drawing on the media to make this up.

MS GIGABA: I do not even understand why he will talk about the media, because at our home Malusi did not even allow us to watch the news most of the time or also maybe
10 read the newspapers as well. So everything that I said it is something that I have seen or that is something that he told me. So I would never go to the media and go collect information about him. What I have given here it is something that I have seen and something that I heard from him that he told me.

When it comes to the India trip, India trip happened when Malusi was taken back to Home Affairs, but I know a couple of times when AJ will tell Malusi when he was still with DPE he will say you need to go meet those people and
20 also I want to know what the feedback between the SAA and sometimes they will argue.

Malusi say – I remember Malusi saying to him I cannot go with a State visit to go meet those people because AJ wanted them to cancel the airline, the SAA airline and put the Mumbai airline. And Malusi said he

cannot go on his own. He need to justify the trip. And then AJ will be like no, you can go with the SAA. Then Malusi was like, he cannot do that because he need to justify the trip.

So they used to have like a back and forth how Malusi will go to Mumbai doing that airline and sometimes they will have a back and forth with him, it is him and also with Dudu Myeni. So there were discussions most of the time where they will talk about that before the trip and then
 10 Malusi was taken back to Home Affairs before he travelled to India. But the trip happened when he was at Home Affairs he went to India.

CHAIRPERSON: Did you say he did not want you to watch the news on television or read the newspapers at home?

MS GIGABA: Ja, most of the time beside his work purpose, our marriage were more exposed to a lot of scandals which sometimes if I come I tell him that, Malusi, I saw this maybe in the paper, what is happening. Because most of the time when something would be on the paper
 20 Malusi would never tell me. So I will hear maybe when people are sending me messages oh, sorry about what happened.

Because Malusi will do the whole statement in public without even telling me what is happening. So I will see things when it is already trending, because he never

told me what was happening. So because of that he wanted us not to read papers so that we avoid of seeing things that are being said about us. Because since we got married in 2014 like our family has been in papers for his scandals most of the time. So then he did not want us to read newspapers. So it is just so untrue for him that I got that from outside.

CHAIRPERSON: So what would happen? Because he would need to watch news or read newspapers. Did he not
10 watch news as far as you knew in the house?

MS GIGABA: Most of the time I will watch news when Malusi is in Cape Town, because it was not most of the time Malusi was at home. Because from Tuesday to Thursday he was in Cape Town, then I will be alone, ja.

CHAIRPERSON: Okay. Alright. Mr Myburgh.

ADV MYBURGH SC: Thank you. At paragraph 26 of your affidavit you said that at some stage Mr Gigaba told me that AJ Gupta wanted to get rid of Mr Dames and you say that you asked Mr Gigaba why and he said that the Guptas
20 did not like him because there are things that he was supposed to do but did not do. Mr Gigaba responds at paragraph 70 by saying:

“This is again a total fabrication. I deny the discussion which Nomachule alleges that I had with her concerning Dames’ employment. I emphasise

that I did not discuss government business with her. Furthermore her version cannot be accepted as true. I never had any discussion with AJ Gupta concerning Mr Dames who at a point in time was the CEO of Eskom. I have made a submission in this regard to the Commission.”

What do you have to say to that?

MS GIGABA: Also this is not true on his side, because I remember AJ saying to Malusi he need to put pressure on
10 Brian Dames so that Brian Dames must resign – can resign and Malusi what I remember, Malusi was very fond of Brian Dames, even myself. We like him at home because he was such a nice guy, very chilled, although I do not know his work that much because I was not following his work.

But the Guptas did not like Brian and Malusi liked Brian and every time when they used to talk Malusi and AJ, then Malusi were like why they do not want, then AJ will tell Malusi that no, there are certain things that he is not doing. And also I asked him why they do not like him,
20 because to me he appears as a nice guy, as much I did not know his job.

Malusi said that there were things that he was not doing and AJ they wanted him to do and AJ was asking Malusi to put pressure on Brian so that Brian can resign and leave Eskom. And in a couple of months it happened,

because I remember Malusi told me that Brian was leaving and it was sad. And I knew he did not like it, but they put pressure on him.

ADV MYBURGH SC: Could I take you to paragraph 28 dealing with meetings at our home. You said that during 2013 Mr AJ Gupta met with Mr Gigaba at our then official residence. You saw him there at most twice. Meetings took place in an underground room or bunker. And this is emphatically denied. Do you want to comment on that?

10 **MS GIGABA:** So this one is – he can call it whatever he calls that room, but it is the only room that you take the stairs then you go downstairs, because all our rooms in the State house they are on top which is on the top surface and that room it goes down and it hold Malusi's safety and also has where Malusi usually holds his meeting.

So when AJ he came at our home two times and I remember because when Malusi say I must come and say hi to him, then I wanted to offer him something to eat and he refused. Then I said to Malusi on the second time,
20 because also he refused to eat, I was like I just do not like this thing of AJ he does not eat here, but when we go to their house they always even when you say we do not like it, because most of the time they like vegetarian food and I do not like vegetarian food, so they will say no, try this, try this and Malusi was like no, you can even when you do not

like it just try. But when he came to our house he did not even want to try.

So I remember having that conversation with him why AJ does not want to eat when he comes to our house, but when we go to their house then we have to eat their food. So it is a lie when Malusi said AJ never came to our house. He came twice.

ADV MYBURGH SC: At 29 you then go on to narrate what Mr Gigaba told you they were meeting about, Transnet
10 tenders and an Eskom project that was giving him a headache. Mr Gigaba responds at paragraph 73 by saying:

“The contents hereof are again a total fabrication. I have stated above that I had absolutely nothing to do with tenders and SOEs are removed from procurement and supply chain processes and their departments let alone in the SOE’s. I therefore deny any discussion about a headache concerning an Eskom project with Nomachule.”

20 Do you want to comment at all, or stand by what you have said?

MS GIGABA: I stand by what I said, especially when I say it gives me a headache. There was this project called Kusile, it was at Eskom, and I remember most of the time that project at Kusile used to give Malusi a lot of time, then

he will go discuss things with Ajay, and I will be there as well when they were talking but he was saying like I do not know what was so - he was given a lot of time about Kusile Project.

And I even remember when Malusi left, that project was not completed, but I even remember Malusi went and visit that project with his team at Eskom. So I knew because I was there when they were talking. So when he is answering this, his just like giving, like a general that
10 Ministers are not allowed, but him he was involved.

CHAIRPERSON: Well, can I take you back to what you say in paragraph 28, you say that the meetings between Mr Gigaba and Mr Ajay Gupta took place in an underground room of bunker at our home. I see that in paragraph 72 of his affidavit. He says:

“I denied that there was any bank or underground room at my official residence, this is indicative speculation.”

How can there be this dispute between the two of you
20 about whether or not there is a room underground?

MS GIGABA: Maybe he can call it with his own way, but that house is still there because it was a State house, it is still there. So he can call it the way he want to call it. I call it underground because all of our rooms, they are on top.

CHAIRPERSON: Yes.

MS GIGABA: But there is one room that if you take the stairs you go down and when you go out, you go the pool, that was only that room and that was the room that Malusi use to hold meetings. So if someone comes at home, upstairs you will not see Malusi who is he meeting with because that house is just – and that house is still there.

CHAIRPERSON: That room is the only one that is at that level?

10 **MS GIGABA:** Yes.

CHAIRPERSON: The others are on top?

MS GIGABA: The others are on top, all of them.

CHAIRPERSON: Ja.

MS GIGABA: Then it is the only one just takes the stairs, you go down and then there is a balcony, then when you stand at the balcony, then you see the pool.

CHAIRPERSON: Ja.

MS GIGABA: Yes.

20 **CHAIRPERSON:** So - but is it on the same level as the ground level if you are outside of the house, or is it below the ground level if you are outside the house.

MS GIGABA: Also how the house is built, so when you come in, if you walk in, you will not know that you can still go down. So you will think you are just here and when you go further in the house, you can take the stairs on the

other side of the house. Then there's other...[intervene]

CHAIRPERSON: Other rooms.

MS GIGABA: Other rooms, but there are upstairs but there's on other wing of the house.

CHAIRPERSON: Yes.

MS GIGABA: So when you come in at home, you will not know that you can go down.

CHAIRPERSON: The steps go down.

MS GIGABA: Yes, but it was the only house, this is the
10 way the house was built.

CHAIRPERSON: Okay, alright Mr Myburgh.

ADV MYBURGH SC: Thank you, then at paragraph 30 where you saying that Mr Gigaba invited staff from his office at the Department of Home Affairs to our residents prior to a trip to Mumbai and New Delhi, India and he denies that, have you got anything to add to that or do you stand by what you said?

MS GIGABA: So he did invite his staff and what happened – and what I said to him, because when he has
20 these meetings with his staff, because when he has staff meeting, he will have people from the Ministerial which is people that are close working with him and maybe he will have maybe one person or two people from the department because the Ministerial team are different from the department people.

So then what I said to him, I was like when you have these people, we do not run out because sometimes I do not know Malusi is going to host these people and then people they just come in the evenings. Then now I have to make sure that I had to accommodate them.

Then where Malusi started, so his PA used to come early and prepare for that. Then he will order takeaways and on that room that I am taking about then because there was an eight seater table. So then he will come an order
10 and prepare so that everyone when they come they have water, they have snacks and everything. So they use to order takeaways because he never tells me prior to the meeting.

ADV MYBURGH SC: I would like now to turn to your paragraph 30.2 and this is not something as I remember that we dealt with thoroughly in your initial evidence. It is the India trip and that is because of the error in the date. Your, correcting affidavit, correct paragraph 30.2 by saying instead of during or about 2010 it is 2015.

20 **MS GIGABA:** Yes.

ADV MYBURGH SC:

“I accompanied Mr Gigaba, I will take you through this, and other government officials on a trip to Mumbai and New Delhi, India. Before the trip I overheard Mr Gigaba complaining to Mr Ajay Gupta

that he could not go on a trip to India because he was still at the Department of Home Affairs.”

In 2015, Mr Gigaba was at the Department of Home Affairs.

Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: So I think we have discussed in consultations that the word still need not be there.

MS GIGABA: Yes.

ADV MYBURGH SC:

10 “I overheard Mr Gigaba complaining, this is your version, to Mr Ajay Gupta that he could not go on a trip to India because he was at the Department of Home Affairs.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“Therefore he could not justify a trip to discuss a new flight route between South Africa and India, which was a matter that fell under the DPE.”

20 That was his previous portfolio.

MS GIGABA: Yes.

ADV MYBURGH SC:

“At a later stage, Mr Gigaba mentioned that he would create an official State visit to India whilst at the Department of Home Affairs so that he could

meet the Indian nationals that Mr Ajay Gupta wanted him to meet in relation to the South Africa/Mumbai route.”

Then you say at 30.3:

“In India, Mr Gigaba and Mr Matsumi attended various meetings. I did not see with whom they met as I was out shopping, when they attended the meetings.”

Then at 30.4:

10 “Mr Gigaba later told me in 2010, that the Gupta’s wanted to introduce their own airline to service the Johannesburg Mumbai flight route and that the Gupta’s were demanding that he compel SAA to cancel their Johannesburg Mumbai route, Mr Gigaba did not support it.”

Now when you say he later told me we dealing with 2015 in paragraph 30.2, when did he tell you this?

MS GIGABA: So the first time I heard about the Mumbai airline and the SAA airline, Malusi was at DPE at the time.

20 So he used to talk about that, that they need to cancel SAA airline and then they need to bring Mumbai airline and that is where most of Malusi’s arguments if I can put it that way with Ms Dudu Myeni it was more of that because they used to argue about it.

ADV MYBURGH SC: Sorry, Ms Gigaba but I want us to

deal with the correction that needs to be made to 30.4.

MS GIGABA: Yes.

ADV MYBURGH SC: So it is not later, do I understand you to be saying that he told you this during his tenure as the Minister of DPE?

MS GIGABA: So when it comes to dates, I explained in our consultation about the year...[intervene]

ADV MYBURGH SC: Just bear with me about trying to get rid of the dates, he told you whilst he was the Minister of
10 the DPE, is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Now, let us go to his version, of course, he deals with the error in the date the 2010 he makes the point that there was a trip in 2015. Then he says at 77:

20 “During that trip I officially opened the Visa Facilitation Centre in New Delhi, reached an agreement with the Minister to open more Visa Facilitation Centres in order to expedite visa applications.”

He visited an E passport factory, met with the Minister of Home Affairs etcetera. He says:

“I had no discussion with Ajay Gupta about this trip. I also did not complain to Nomachule about any demands concerning the trip.”

He says at 78;

“The suggestion that Nomachule overheard me complaining to Ajay Gupta that I could not go on a trip to India, because I was still at the Department of Home Affairs is nonsensical. As stated above, I did go on my second trip to India whilst I was the Minister of Home Affairs, this had absolutely nothing to do with the South African Mumbai route. It is ridiculous to suggest that I could not justify a trip to discuss a new flight route between South Africa and India, which was a matter that fell outside my jurisdiction as Minister of Home Affairs but was under the DPE.”

So the long and the short of it is he says that this trip had nothing to do with the South Africa Mumbai route, he went there and he performed the work of Minister of Home Affairs by visiting Visa Facilitation Centres, visiting an E passport factory, etcetera.

MS GIGABA: He did that, but he knew that he had to come up with something so that he can justify why he went there and I remember, he went there with the team because we stayed maybe two or three days in New Delhi. Then a few days later, we moved to Mumbai, where we stayed at the hotel. So when we were in Mumbai, then Malusi that is where he did his own meetings, because

when we were in the room, he will say, eish, because he was tired, because when we were in New Delhi it was raining so hard, it was flooding and then Malusi was going with his team and then some of the meetings, I do not know, he did it alone, so I cannot say that.

But when we were in Mumbai, then Malusi was tired and he was like, I need to go do this meetings Ajay arranged this, so he would leave the hotel, our room and go downstairs to meet the people that Ajay arranged for
10 him to meet when we were in Mumbai.

So maybe he will not declare all the trips, but they were trips, there were meetings that he did that Ajay arranged for him, but he could not leave South Africa, only for those meetings. So he had to take the whole department with him so that he can justify that.

CHAIRPERSON: So which year are we talking about when that trip happened was in 2010?

ADV MYBURGH SC: 2015.

MS GIGABA: 2015.

20 **CHAIRPERSON:** 2015, okay so he had stopped being Minister of Public Enterprises in 201 when the elections happened, and after that, he became the Minister of Home Affairs.

MS GIGABA: Yeah, he was taken back.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: Alright, so let us go to paragraph 31, here you deal with prior knowledge of appointments and what you say is that:

“After a new age breakfast session, Mr Gigaba told me that Mr Molefe was going to move from Transnet to Eskom. I was told this before Mr Molefe was officially appointed to Eskom, etcetera.”

And then, at 31.2 you said that:

10 “Mr Gigaba told me that Mr Gama would be appointed as the chief executive officer of Transnet.”

In your evidence you corrected that to say that he would be taken back as the CEO of Transnet Freight Rail, do you remember that?

MS GIGABA: Yes.

ADV MYBURGH SC: And then at 31.3, you say or said that

20 “Mr Gigaba also told me that he intended to speak to Mr Gama to appoint his sister, Ms Gugu Gigaba to Transnet.”

You say:

“To the best of my knowledge Ms Gugu Gigaba was appointed and remains in the employ of Transnet.”

And then 31.4 you said:

“On many occasions, Mr Gigaba informed me that

the Gupta's knew and had told him about who would be moved from an appointed to SOE's."

Now Mr Gigaba says at paragraph 81:

"That this is a total fabrication, at the time when Mr Molefe became CEO of Eskom, and Mr Gama became the CEO of Transnet he had left the DPE."

You want to comment on that?

MS GIGABA: But he knew before he became the CEO of Eskom, Malusi told me so he knew before.

10 **ADV MYBURGH SC:** Then he says, at paragraph 83:

"I must immediately deny that I have told Nomachule that is a word I am missing there, intended to speak to Mr Gama to appoint my sister Ms Gugu Gigaba to Transnet. My sister was appointed at Transnet long after I had left DPE after following due process and remains in their employ."

You want to comment on that?

MS GIGABA: Yes, when Gugu was given a - Malusi said no you can take it then I will talk to Gama to - he will find
20 something for you. I did not say Malusi was DPE when she started but what I know of Malusi spoke to Mr Gama to find work and also what I remember Gugu came to stay with us in Joburg before she even found a job. So she came, I think he stayed with us for a month or two months or so, at our home before she even got a job at Transnet. So when

she left, KZN the job was not there yet, but Malusi said he must take - he must move her stuff, then he moved her things she came to stay with us at home before she started the job.

CHAIRPERSON: Well, you just said that what you know, is that Mr Gigaba spoke to Mr Gama.

MS GIGABA: Yes, that is what he said.

CHAIRPERSON: But that is actually not true, because you were not there when he spoke to him. It is what he
10 told you, is that right?

ADV MYBURGH SC: Yes, it is - he told me that.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: Then under the heading tensions arising at paragraph 32. You said that:

“As Mr Gigaba’s tenure as Minister at the DPE progressed, he often told me that the Gupta’s were putting pressure on him to take certain decisions with which he did not agree.”

And you mentioned a number including Mr Gama’s,
20 etcetera, and then he says at paragraph 85 in response:

“This is once again a total fabrication; I deny ever discussing being put under pressure by anyone concerning appointments. As Minister of DPE it was my duty to defend the appointments that cabinet had made. There was no one that could tell

me who to appoint and who to dismiss. I again deny the allegation that the Gupta's were my advisors and accordingly, Nomachule is lying when she says that she raised this issue with me."

Do you want to comment on that?

MS GIGABA: So what he is saying that it is not true because Malusi told me these things, and I will never come up and give the word advisors to the Gupta's. So it is him who told me the Gupta's are his advisors, I think the other
10 day I even asked him why you call them advisors, and why you always rush to go there and you go to work, you have to go to Cape Town.

And I remember there was a time when Malusi was at DPE then Ajay will call Malusi and Malusi will ignore his calls and I asked him like what is wrong, why now you are ignoring - because in the beginning, when he was appointed he loved taking their calls, he loved us going there but later before he leave he did not have like a good relationship with them.

20 Then I asked him what is wrong, then he said, they putting pressure on him and there was a time where Ajay reminded Malusi, he said remember why you were appointed because Malusi will argue. I remember the other time Ms Dudu Myeni did not like Kalawa he used to call Malusi and he will complain about him and Malusi loved

Kalawa as a CEO during that time and Ajay also they did not like Kalawa and there was a lot of things between Eskom, Transnet where Ajay they would want Malusi to do certain things, and Malusi did not want to and then Ajay one day, he told him that Malusi, he must remember why he was appointed to those post.

So it is a lie when he says he never - he had a headache - later, before he left he was taken back, the relationship was not like it was in the beginning. So what
10 happened in the beginning he was excited, after a year when he was at DPE Malusi wanted to run the department the way he wanted and Ajay they wanted him to run things the way they wanted and they had the conflicts most of the time.

CHAIRPERSON: So did you get the impression that the conflicts between them that you are talking about was because Mr Gigaba was resisting Ajay Gupta's attempts to get him to run the department the way he wanted, and not the way Mr Gigaba wanted?

20 **MS GIGABA:** Yes, because I remember there was a time when Malusi will be like, in the evening, he will come home, then he is tired and then he will say the reason he does not like the Gupta's being involved in his job. So he has a PA keeping his diary. So according to him and his PA, he knows how his diary work and his Ministerial team,

and he has some meetings with his Deputy and other people. But now when Ajay calls, so Ajay will demand Malusi to just leave everything and then it puts Malusi under pressure because Malusi was complaining that it makes him look unprofessional because now he will ask his PA to cancel the meeting and maybe people they were coming somewhere to see him.

So now it was just disorganising everything that is the other thing that he did not like and also what I have
10 noticed, it was – Malusi like certain people like Brian Dames, Monalusi Kalawa also he had a good relationship with Brian, we have become family all of us and even with Gama we attended their wedding.

So certain people when they were moved during like sometimes restructuring Malusi did not like it because he always have a team - how he works with them and then now those people are being removed, so he did not like that.

ADV MYBURGH SC: So in paragraph 33 you continued
20 really with that theme, where you talked about the relationship becoming strained. Getting around Mr Dames, Mr Gigaba starting to avoid telephone calls, being called to the Gupta residents and the fact that Mr Gigaba told you that Ajay told him that if he wanted to run the DPE as he wished he would be moved back to the Department of

Home Affairs and you conclude by saying:

“I understand that Mr Ajay Gupta would often tell Mr Gigaba that he should remember why he was appointed at the DPE.”

And response to that is:

“This is once again a fabrication.”

I think it is something that you have already addressed, is that correct? You have addressed this issue.

MS GIGABA: I have addressed this and I remember in my
10 statement.

ADV MYBURGH SC: Do you have anything to add?

MS GIGABA: Sorry?

ADV MYBURGH SC: Do you have anything to add in
relation to that?

MS GIGABA: I do not understand why he is denying this
whole thing because it was very stressful on him and also
the stress - because I remember at that time, where he was
so stressed when Ajay will want Malusi to do this and this
he will – then there was a time when Malusi would go to
20 Rosebank Hospital because he started having migraines
and lots of them where he would just go there and he
needs to take injections for his migraines.

So his work became like - he could not control - he
did not have control of his work. He wanted to work to do
his work but he could not disagree with them because I

remember the other time when he had a migraine then I even asked him, why do you not tell them that you do not want to do it? Then he said he cannot. So it came - he will go to the to the Saxonwold, the Gupta's even when sometimes he did not want to, sometimes he will avoid his call.

And there were times where Tami[?] will come at home we will tell him that Ajay says you are not answering the calls. No, you must try, he needs to go and then he
10 will do it but their relationship was not like when he was appointed in the beginning. So it changed a little bit because Malusi felt like they were interfering in his job.

ADV MYBURGH SC: Right, if you can go to paragraph 34. You talk about Ms Myeni having facilitated your honeymoon trip and you say he would often meet with her at the Sheraton Hotel for lunch and thereafter would go to the Gupta residence. He says at paragraph 89, that:

“I only had one meeting with Ms Myeni at the Sheraton Hotel.”

20 How do you know that he would often meet her at the Sheraton Hotel for lunch?

MS GIGABA: Because I will go with him, so what happens Ms Myeni used to book a room at Sheraton Hotel, and myself and Malusi will go there then they will have a meeting, then I will sit there and sometimes we will have

like - sometimes then he will ask me, how are the boys, are they growing, and then after then ii will sit and then they will talk in their own meeting. So they will to book a room but Dudu use to book a room then Malusi will come in, then they will have a meeting.

ADV MYBURGH SC: Then at the end of 89, the remainder of the allegations are denied. So what that means is that Mr Gigaba is denying that Ms Myeni facilitated your honeymoon.

10 Do you stand by your evidence in that regard?

MS GIGABA: Yes, I stand by my evidence.

CHAIRPERSON: The Sheraton Hotel is that the one in Pretoria?

MS GIGABA: The one in Pretoria.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Then at 35, you said:

20 “At a later stage, Mr Gigaba informed that there was some disagreement between him and Ms Myeni about certain decisions pertaining to the direction of SAA which resulted in tensions between them.”

He says:

“This is a total fabrication.”

MS GIGABA: Even as we stand right now, they do not get along, if they can do that they will be just pretending because I remember when Malusi was taken back at Home

Affairs he was very angry, he felt like the President was influenced more by Dudu Myeni because Dudu Myeni also repeated the words that were said by Ajay, that if Malusi does not want to take instructions, he will be taken back and Malusi was like, he will never touch me, because in his head, he has that impression that he comes first to the President, all the other Ministers were just - so every time when maybe a reshuffle will happen Malusi was - he always thought he will never be you know, tasks or he will only -

10 he will be like the first preference to be given.

So when Dudu Myeni and Ajay Gupta said Malusi will be taken back, so he said something like that will never happen. So when it happened, he was very angry and he said he knows it was the influence from Dudu Myeni, she had the influence on the President to take him back.

CHAIRPERSON: This is now back to Home Affairs?

MS GIGABA: Yes, because on the day, I remember when he came back at home, so he was called in the evening

20 and he was told that his going to be taken back to Home Affairs. So you are going to be no longer a Minister of DPE. When he came back home, he was so angry, and he just went back to the bedroom.

And then I said what happened, what did he say? I thought he was fired the way he was so devastated. Then

he said, no, they taking me back to Home Affairs. So - and I knew it just because of Dudu Myeni and the Gupta's and then I said why you did not tell them, why you did not tell the President? He said I could not raise those things, because there were top six around there so I did not want to say those things. Then I asked him what did the President say to you when he was taking you back, what was the reason? Then he said, the President said Malusi need to tighten the borders.

10 **ADV MYBURGH SC:** At paragraph 37 you said that:

“On Sundays Mr Gigaba and I would regularly have lunch in Sandton when driving to return home I would overhear Mr Gigaba’s telephone discussions with Ms Myeni. He would sometimes share the detail with me and included in that was he did not understand why Ms Myeni had been appointed as the Chair of SAA because he did not believe she was competent.”

And then you go on to say various other things but at
20 paragraph 92, he says:

“This is once again a total fabrication. I did not have any such discussions with Nomachule as stated in paragraph 37.1. In any event, why would I question Ms Myeni’s appointment as the Chairperson of the Board of SAA when it was in my

capacity as the Minister of DPE who recommended her appointment to cabinet.”

Do you want to comment on that?

MS GIGABA: Also, what his...[intervene]

ADV MYBURGH SC: He is he saying I would not call her incompetent because I recommended her appointment.

MS GIGABA: So he used to say that a lot. He used to say he does not understand why the President made Dudu Myeni the Chairperson of SAA because Malusi felt like
10 Dudu Myeni did not understand the job and also he was interfering in the SAA Board. He even mentioned that sometimes he will go attend the meetings, the Board and he will take some of the information and give it to uBaba[?] before it was given by people who need to give uBaba[?] the information.

And also there was a lot of – they did not get along most of the time, Malusi and Dudu and Malusi used to question, he was like I do not like the way she works she does not understand the job. I do not understand why the
20 President appointed her. So that is him, he use to say that to me.

CHAIRPERSON: You just used the word uBaba[?], who are you referring to?

MS GIGABA: That is him, he use to call the President like that.

CHAIRPERSON: Okay, alright.

ADV MYBURGH SC: Paragraph 38, you say that:

“Ms Myeni told Mr Gigaba that if he do not do as he was told he would go back to the Department of Home Affairs.”

He says at paragraph 95:

“There was a rumour to this effect and this is presumably Nomachule’s source of information, I deny having discussed any of this with her.”

10 What do you say to that?

MS GIGABA: I do not know the rumour and I do not know anyone in this house knows that kind of rumour, I only know this thing from him.

ADV MYBURGH SC: And how did you know this?

MS GIGABA: Because he told me.

ADV MYBURGH SC: Right. Paragraph 40 dealing with Mr Gigaba’s return to the Department of Home Affairs you said:

20 “Mr Gigaba did not believe that the former President would transfer him back to the Department of Home Affairs because he believed that they shared a very close relationship.”

I think this is something you have already expanded upon. At paragraph 97 Mr Gigaba says:

“I do not even know how to respond to this it

is simply ludicrous.”

Got anything to add to that?

MS GIGABA: Because he does not know how to respond of what he should do.

ADV MYBURGH SC: Then at paragraph 41 you say it:

“That Mr Gigaba therefore appeared very shocked and hurt when his transfer was announced after the 2014 elections.”

And you explain that the former President told Mr
10 Gigaba in front of the ANC Top 6 leaders the reason he was being moved back and Mr Gigaba did not believe it etcetera. And at paragraph 98 Mr Gigaba’s response was:

“This is again a total fabrication and pure unfounded speculation. I do not know when it is that I appeared shocked. Furthermore, one is never appointed in front of the ANC Top 6 this never happened. This goes to show the extent to which she is prepared to sink in order to perpetuate a false narrative.”

20 Do you wish to comment on that?

MS GIGABA: That is what he told me because I asked him why did he not ask the President why he was removing him from – into Home Affairs that is what he said.

ADV MYBURGH SC: Then we get the Gupta’s application for South African citizenship. Now again I do not think this

is something from what I can remember that you dealt with in your evidence. I just want to in any detail I just want to take you through these paragraphs. During – at 42.

10 “During Mr Gigaba’s term of office as Minister of the Department of Home Affairs he informed me that he was assisting some of the Gupta family members to obtain citizenship in South Africa. He said that the Gupta’s were conducting business in South Africa and they needed their – and that they needed their family then living in India to be in South Africa.”

Is that correct?

MS GIGABA: Yes it is correct.

ADV MYBURGH SC: You confirm that?

MS GIGABA: Yes he told me that.

ADV MYBURGH SC: At 43.

20 “One day in 2015 Mr Gigaba came home with a blank official documents in a brown envelope which he informed me the Gupta’s needed to sign. I went with him to the Gupta residence and on arrival Mr Ajay Gupta greeted us. Mr Gigaba went with Mr Ajay Gupta into a separate room carrying the brown – same brown envelope. When we left

the Gupta residence to go home Mr Gigaba carried the same brown envelope with him. The next morning Mr Gigaba called me to ask about the whereabouts of the brown envelope. He asked me to look for the brown envelope at home. Later that same day he called again to inform that he had found the brown envelope in the boot of the car.”

So what Mr Gigaba says is at 99.

10 “This is once again a total fabrication. This like all the other contents of the affidavit seemed to have been stitched together by Nomachule from various media reports over the years concerning myself.”

What do you say to that?

MS GIGABA: I am not sure why he keep on protecting them because everything you said something like he told me is something that I have seen. So that incident it happened at home when he came back at the Gupta’s house with that
20 envelope.

And also I remember when the media used to have like – they used to comment about the Gupta’s in the country why they only build – and Malusi used to be on their side even like the way he is on their side right now. He used to say he does not understand why people are always asking

the presence of the Gupta's in South Africa because they are bringing the business in South Africa.

So he used to name which I do not recall which are those businesses that they used to bring but he used to say the Gupta's are bringing business in the country. He does not understand how South African's think. So that happened. So I even asked him on the day then I was like what is that? He said no they are documents because they need to bring some of their family members so he was
10 helping them.

So when he came back the documents were in the boot and he forgot even myself I forgot. So in the morning he was looking for them in his office asking everywhere then I said I do not remember where is it. But he was like I can leave it at home but I do not remember.

Then later he called when he was in the office he said no I found the document in the boot. So that was – he was doing that. So he said he was helping them because they were bringing business in South Africa.

20 **ADV MYBURGH SC:** At paragraph 100 he emphatically denied the contents and he says a suggestion of the brown envelope is a figment of your imagination. You have addressed that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Could we then go to paragraph 46.

Now this deals with Mr Gigaba's appointment as the Minister of Finance. You said at 46:

"This change in Mr Gigaba's portfolio appeared to upset him very much. He informed me that the former President told him that he initially wanted to appointed Mr Molefe as the Minister of Finance finally decided to appoint him; Mr Gigaba at the request of other NEC members."

10 At paragraph 103.

"Mr Gigaba said this is again a total fabrication. Why would one be upset on – on being appointed a Minister of Finance?"

Etcetera. What do you have to say to that?

MS GIGABA: So he was not upset that he was a Minister of Finance he was upset the fact that the President when he told him that he is going to become a Minister of Finance. So he said the President was acting like it is coming from his heart and Malusi deep down he said he knows that the
20 President did not want him to become a Minister of Finance. He wanted Brian Molefe to become a Minister of Finance. So – so he was like I just do not even understand why he acts like he is giving me that portfolio because he did not want me. So I do not know who suggested that Malusi must become the Minister of Finance. And I remember the time

Brian was already in Cape Town. He was staying in the – there was a residence for Parliamentarians yes at that time. So Malusi was like I know why Brian was in the Parliament it is because he was preparing for his appointment as the Minister of Finance. So when the President appointed him he was like he thinks I do not know that I was not his first preference.

ADV MYBURGH SC: Mr Gigaba says in that paragraph 103 that he never mentioned Mr Molefe's name to you.

10 **MS GIGABA:** Do you want me to say something on that?

ADV MYBURGH SC: Yes can you address that?

MS GIGABA: Oh okay. Like...

ADV MYBURGH SC: Are you sure that he mentioned Mr Molefe's name to you?

MS GIGABA: Yes he said that. He said the President wanted Brian to be the Minister of Finance not him.

ADV MYBURGH SC: And that is in fact as I understand your evidence please correct me if I am wrong that is what upset him that he was effectively the second choice or the fall back
20 choice.

MS GIGABA: Yes.

ADV MYBURGH SC: Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Then can I please take you to paragraph 49 under the heading Gifts. Paragraph 49 you

deal with the fact that Mr Ajay Gupta gave Mr Gigaba a BMW.

MS GIGABA: Ye.

ADV MYBURGH SC: And the simple or short response to that is the contents hereof are denied. Do you confirm the contents of your paragraph 49?

MS GIGABA: Yes I know because I drove that car almost a year and – but what I remember when that car we need to get the – the renewal of the disc – I think it was a year
10 almost like two years when I was driving that car.

So I remember when that car needs to go to service or maybe wanted to get a disc and even the time when I was I delivered that car so his friend Malusi Matosi 00:08:58 friends who used to do that for him especially there is this one friend was focussed on this car. So who used to call me then we call each other Malungu because he was dark like Malusi so it was me way of teasing him. So he will call me Malungu where are you? Then I am like no I will tell him where I am and like when are you coming to Sandton or can I
20 meet you I want to give you the disc.

Or sometimes he would like no I want to check the car when is it due for service. So Joe used to do that for him. So that was his friend. Even the day I took the car to drop it off when he did not come back so I was in a road block and the Metro Police officer said to me – do you are

you aware that your lights is not working at the front? Then I said I did not know. Then he said come out and look. Then I looked at the car because this was a bit in the evening.

So when I got home I told Malusi that I am going to take the car to fix the lights in the morning because the police said that. So in the morning Malusi was no do not take the car I already called my friend, take the car and drop it off with him so then the protectors will fetch you come back.

10 Then I was like no but there is so many BMW's around where we stay in Pretoria why must I take the car all the way to Sandton then he was like no I want Joe to do it. So that was his friend. So he wanted his friend to do it because most of everything that happens at our house in terms of the car – because Malusi does – never had a car in his name. So his friends do this – those things for him. So we do not take cars to service. So I only do that when I have got my own car.

ADV MYBURGH SC: How long did you drive this BMW for?

20 **MS GIGABA:** I drove it I think a year and a half or almost two years.

ADV MYBURGH SC: My colleague points out to me if I could take you back to paragraphs 42 and 43 that – I think I mentioned to you that I do not think that you dealt with this in your initial evidence. What has been pointed out to me

that these paragraphs under the heading Gupta's Applications for South African Citizenship that was one of the things that you said needed to be re-crafted.

MS GIGABA: Yes.

ADV MYBURGH SC: I see it is not something that you have addressed in your correcting affidavit.

MS GIGABA: Yes.

ADV MYBURGH SC: Do you – do you then...

CHAIRPERSON: I am sorry Mr Myburgh have you moved
10 away from the BMW?

ADV MYBURGH SC: Yes I have – sorry I have gone backwards.

CHAIRPERSON: Oh you go back.

ADV MYBURGH SC: Yes I have gone backward. Do you want to ask something about the BMW?

CHAIRPERSON: Okay. Ja. On the BMW unless you are still going to go back there ja.

ADV MYBURGH SC: No, no – please.

CHAIRPERSON: Ja. Yes You say you kept that car – you
20 drove that car for about a year and a half?

MS GIGABA: Yes. And then when I drop it off I drop it off at his friend's place. But I do not know why I took pictures of it when I was standing there at his place in Sandton and then when the Hawks took my gadgets so those are the kind of the pictures also that were deleted. All the pictures of that

car are deleted on my phone

CHAIRPERSON: And would there be – I guess there would be friends and other people who knew the car when you were driving it.

MS GIGABA: Ja there were people who know that I was driving the car.

CHAIRPERSON: Yes. And did you say it was registered in your name or was it not last time?

MS GIGABA: It was in my name but very short it was
10 changed out of my name then it was registered on his friend's name. So when I was looking for it now I contacted the licence department so they told me that the soon the change of ownership of the car moves from the – this owner to another owner then everything just changed automatically to go another person. So – because it was his friend. I do not know why Malusi changed the car from me to his friend.

CHAIRPERSON: When did you get to know that – that part?

MS GIGABA: Sorry.

CHAIRPERSON: When did you get to know that the car was
20 registered in his friend's name at some stage?

MS GIGABA: Oh no he did not – I think a few months I was driving the car Malusi told me that he wants the car to be registered under his friend.

CHAIRPERSON: Oh so he – that was done while you were still using it.

MS GIGABA: Yes and I asked him why so he said because the time – because his divorce dragged for too long. So he said he does not want that car to be there because he was married in community of property so he wants – he does not want the car to be taken away from him so let us put it on his friend. So then he did it.

CHAIRPERSON: Yes okay Mr Myburgh.

ADV MYBURGH SC: Yes I just wanted to take you back to paragraphs 42 and 43. When you initially gave evidence you
10 indicated that these paragraphs would have to be re-crafted. But I have noted from your correcting affidavit that you do not deal with them. Do you confirm then the accuracy of paragraphs 42 and 43? This is your version.

MS GIGABA: Yes this is my version. The only part that I was correcting on the old affidavit it was the word saying Malusi approved the neutralisation of the Gupta's.

MS GIGABA: Yes.

MS GIGABA: Only that.

ADV MYBURGH SC: That is paragraph 44.

20 **MS GIGABA:** Yes.

ADV MYBURGH SC: But you happy with 42 and 43.

MS GIGABA: Yes.

ADV MYBURGH SC: Right. Then could I take you please to paragraph 50. I just wanted to ask you this. You say at paragraph 50 that:

“That we invited both the former President and the Gupta’s.”

Who – who required them to be invited? Was that your decision or?

MS GIGABA: No Malusi was inviting his own people – I was inviting my own people.

ADV MYBURGH SC: So who invited the President and the Gupta’s?

MS GIGABA: It is him because those are his people not me.

10 **ADV MYBURGH SC:** Ja. And he says at paragraph 107:

“I furnished names of certain people I wish to invite including cabinet ministers and the like. I do not recall all the people invited nor those that chose not to attend.”

I think what is inferred here is he is saying he cannot recall whether the President and the Gupta’s were invited.

MS GIGABA: I know that the President was invited. The reason I remember that it is because when we were in Durban two days before my wedding we were doing
20 rehearsals and then they told us that the security people they need to come and do sweeping so we need to move away from the venue and then they did that – even the following day they did that. So when he did not come so I asked Malusi why the President did not come to the wedding because there were a lot of preparations for him to come.

ADV MYBURGH SC: Then at your paragraph 51 you deal with the costs of the wedding and the gift by the Gupta's, payment for the honeymoon in Dubai. Mr Gigaba says at paragraph 101:

“I deny that there was any wedding gift of cash from the Gupta's or payment towards a honeymoon in Dubai.”

Do you have comment on that?

MS GIGABA: On that one the reason I know that they gave
10 him money I asked him like – because you were so close –
because during – in 2014 Malusi and the Gupta's were very
close. So it was very shocking to me that people that are so
close that they have like a very close relationship they are
not attending your wedding. So I asked him why they did
not attend the wedding then he said they said they are going
to give him a gift – cash money as the compensation of them
not attending the wedding. So I knew that the Gupta's were
not coming to the wedding and they were going to give him
cash. The only person I did not know that he was not
20 coming until the wedding day it was the President.

ADV MYBURGH SC: Alright. Then if I could take you please
to paragraph 54. Now this is the paragraph where you
explain that at the Gupta residence – this is the handover of
money. You say that Mr Gigaba would call one of his CPO's
to bring his leather bag – it was in the boot – it would be put

at the front door – he would collect it. Mr Gigaba would carry it to a private meeting room. A short while later he would emerge with the bag – carry it out to the residence for the CPO to place in the boot. I recall that Mr Gigaba had two of these leather bags. You attach similar examples in photographs. And then in 55 you go on to say that you subsequently came to learn that these bags had bundles of cash in.

Now what Mr Gigaba says at paragraph 110 is that
10 this is a blatant untruth and he says:

“I refer to a transcript of an ENCA interview given by Nomachule on 17 December copy of which is attached is KMG3 112. As appears there from she stated that she had never seen me receive any cash physically and further that she had no evidence of me having received such cash. However she now claims she saw me with a sports bag or some leather bag the evidence of which is
20 drawn from internet sources.”

Now perhaps I could just take you to another file of documents. I assume you have it in front of you. It is SEQ18. In other words that is – that is Mr Gigaba’s application. SEQ18. Alright we do not seem to have that Chairperson. That is of course where Mr Gigaba’s affidavit

is bundled.

CHAIRPERSON: It should have been here. But anyway if you are able to (talking over one another)

ADV MYBURGH SC: It is not a – it is not a particular problem. Perhaps what I could do and of course I will raise this with Mr Gigaba as well and I will make sure that we have his affidavit here.

CHAIRPERSON: Ja.

ADV MYBURGH SC: But I just want to – to read to you a
10 portion of the transcript. This is KMG3 it is the transcript of the ENCA interview. And this is at the foot of page 70 of SEQ8 of 2021. You will recall Ms Gigaba this was worked through in consultation with you.

MS GIGABA: Yes.

ADV MYBURGH SC: It records you as having said this:

“Even for our wedding – our honeymoon so there was always there to help financially like all the time.”

And then you said this the last five lines:

20 “Although I was not there when they give the money but I will see when we leave because every time when we go there he used to carry a bag and they will give him money. And we get home he will take the money and put it in a safe and pack it. So yes it was

there.”

So what do you say to Mr Gigaba’s contention at paragraph 112 that:

“She stated that she never saw me receive any cash physically and further that she had no evidence of having received such cash however she now claims.”

What do you say to that?

MS GIGABA: So I will explain as the way I explained in the
10 beginning. So ...

ADV MYBURGH SC: Sorry – this is about what you said.

MS GIGABA: Yes.

ADV MYBURGH SC: During the ENCA interview.

MS GIGABA: Yes.

ADV MYBURGH SC: What you said is:

“Although I was not there when they give the money but I will see him when we leave. Because every time we go there he used to carry a bag and they will give him money.”

20 What do you say to Mr Gigaba’s version that you effectively did not say that?

MS GIGABA: He did not say that? You saying that.

ADV MYBURGH SC: Mr Gigaba says that you said during the ENCA interview that you had never seen him receive any cash.

MS GIGABA: Because I said on the interview that I saw Malusi taking money at home and it was the same bag that he came with it at the Gupta house.

ADV MYBURGH SC: Alright.

CHAIRPERSON: Did you – did you ever see him receive cash from the Gupta's?

MS GIGABA: I have never seen them giving him money and that is what I said it in the interview.

CHAIRPERSON: Yes.

10 **MS GIGABA:** But what you – used to happen when we – when we arrive Malusi will not take his bag with him inside. So then we will leave our phones. Then some – when you were about to leave Malusi will come – go take his phone and call one of his protectors – protectors he will say Chief please bring my bag. So the protector will bring the bag. Malusi will go in with the bag and when we leave Malusi will take the bag with him.

20 So that time I did not know what was inside – what was happening but one – there was this one day we were at home and we came from the Gupta' house and then quickly when I get home Malusi went to his study. Then I quickly went to check the child. When I got there the nanny was telling me that the child is sick.

So I checked the temperature. Then I felt the temperature was too high. Then I rushed to him. When I

was there I saw him packing the money and then I was like – so I was shocked when I saw a lot of money. Malusi was packing it because his safe was open. Then I asked him I was like where do you get a lot of money – why so much money?

Then – then he shouted at me. He was like why I did not knock. I did not understand why I have to knock at home at our own home. Then he kept on shouting like why you did not knock when you come in – in the house. Then I was like
10 the child is sick. Where do you get this money? Why this money then he was like I got it from the Gupta's. Because it was the same bag.

Then I was like why the Gupta's are giving you so much money? He said it was for the elections. So he is going to take it and he give it to – to the Treasury of the ANC. Then I was like what is it for?

Then he said there are things that they need to do. Sometimes they buy t-shirts. So he explained like that. But I did not know how – I even – I remember when I asked it
20 was like so why are have to raise this money yourself? Then he said like this is the nature of the ANC as the head of elections you used to raise money. So the money for the elections. And then after that he said he is coming. He could – need to pack the money then I left. Then after that we take the child to the hospital.

ADV MYBURGH SC: Sorry Ms Gigaba.

MS GIGABA: Yes.

ADV MYBURGH SC: Just so that we understand.

MS GIGABA: Okay.

ADV MYBURGH SC: You did not see Mr Gigaba.

MS GIGABA: Yes.

ADV MYBURGH SC: Get money physically get money/

MS GIGABA: From the Gupta compound.

ADV MYBURGH SC: From the Gupta's. As I understand it
10 you describe what happened.

MS GIGABA: Yes.

ADV MYBURGH SC: And then you describe at paragraph 55
you say:

“I subsequently learnt that the bags
contained bundled of cash.”

MS GIGABA: Yes.

ADV MYBURGH SC: And there you explain the shopping in
Sandton City alright.

MS GIGABA: Yes.

20 **ADV MYBURGH SC:** And you at – on another occasion
speak about the unpacking of the money into a safe, is that
correct?

MS GIGABA: That is correct.

ADV MYBURGH SC: Right.

MS GIGABA: Also when this incident happened in Sandton

it was not only me alone. His body guards also were there.

ADV MYBURGH SC: Sorry I just want you to confirm.

MS GIGABA: Yes I confirm.

ADV MYBURGH SC: That you did not see him.

MS GIGABA: Yes.

ADV MYBURGH SC: Receive money. You did not see money being put into the bag.

MS GIGABA: Yes.

ADV MYBURGH SC: At the Gupta residence.

10 **MS GIGABA:** Yes.

ADV MYBURGH SC: How did you come to learn that he received money from the Gupta's?

MS GIGABA: The one that I saw him packing at home from the bag that he came out with from the Gupta house.

ADV MYBURGH SC: Yes.

MS GIGABA: He said to me he was – he got that money from the Gupta's.

ADV MYBURGH SC: Yes.

20 **MS GIGABA:** And I asked him what was it for. He said it was for elections.

ADV MYBURGH SC: Yes you have explained that.

MS GIGABA: Yes.

ADV MYBURGH SC: And how else? Where there other occasions that you came to learn.

MS GIGABA: We were in Sandton.

ADV MYBURGH SC: Yes. In Sandton.

MS GIGABA: Yes.

ADV MYBURGH SC: And what happened in Sandton?

MS GIGABA: So we were coming from the Gupta's house. It was me, him and his protectors so then the money – there was a bag in the boot. So when Malusi came at the front because they used to open both of us – Malusi was on the outside – I was on the other side. Then Malusi went in the boot and then he opened the big bag.

10 **ADV MYBURGH SC:** Yes.

MS GIGABA: That is the – the bag was coming from the Gupta's house and then he took the money he put it – and his body guards were there also. It was not only me. And it was this stash of cash.

ADV MYBURGH SC: At 55.1 you say:

“There were several occasions when Mr Gigaba and I would go to Sandton City immediately after visiting the Gupta residence.”

20 Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“At Sandton City and in my full view Mr Gigaba would take bundles of cash out of the same leather bag that he had brought from

the Gupta residence.”

Is that right?

MS GIGABA: No.

ADV MYBURGH SC: Right.

MS GIGABA: So what used to happen. It will be a big bag.

ADV MYBURGH SC: Yes.

MS GIGABA: Okay Chairperson. So it used to be a big bag that it will come out of the Gupta house then it will go in the boot. So the two instances I remember at home Malusi was
10 packing the money from that big bag that was coming from the Gupta house and he confirmed to me that he was given that money by Ajay for the elections. The second time it was in Sandton. So he took the money from the big bag to a small bag. So wherever he goes Malusi used to have like a sling bag that is small. So he did not take that whole entire big bag. He took the money – he put it on the small bag and then he took some of it he gave to his protector. He said he must go and pay for his suits. And sometimes when we are in Sandton we will go have lunch and then he will ask his
20 body guard please go pay for my suits. So used to go pay for the suits. So most of the time the money will already on his name bag which means he will put at home before he comes. Not like all the time he would do the transfer from this bag.

ADV MYBURGH SC: Let me put the question another way.

MS GIGABA: Okay.

ADV MYBURGH SC: How many times were you together with Mr Gigaba in Sandton City after a visit to the Gupta residence? How many times?

MS GIGABA: That I saw the money from the big bag transferred.

ADV MYBURGH SC: Yes.

MS GIGABA: It was once.

ADV MYBURGH SC: And how many times were you with Mr
10 Gigaba when he bought suits?

MS GIGABA: It was a couple of times.

ADV MYBURGH SC: And where did the money come from for the suits?

MS GIGABA: From his small bag.

ADV MYBURGH SC: Yes.

MS GIGABA: The sling bag that he used to carry.

ADV MYBURGH SC: Yes. And where did the money come from in that bag?

MS GIGABA: He only – the bag that he used to carry.

20 **ADV MYBURGH SC:** Yes but where did he get the money from?

MS GIGABA: That is what I am saying. It was not all time he would transfer the money from the big bag because sometimes we will leave from Pretoria to Sandton. It was not all the time we will leave from the Gupta compound.

Because sometimes we will just leave from home going to Sandton. Malusi will say let us go have lunch in Sandton or sometimes we will go do our facials in Sandton. So when we do that he would already have the money in the bag.

I do not understand – do you understand me?

CHAIRPERSON: No I understand. So – so you say

ADV MYBURGH SC: DCJ I am told that we have to adjourn very urgently.

CHAIRPERSON: Oh.

10 **ADV MYBURGH SC:** It is apparently a protector related issue.

CHAIRPERSON: Okay I am told five minutes break. Let me – let us adjourn and let me hear what it is about. Let us adjourn for five minutes and then I will come back. We adjourn.

HEARING RESUMES

CHAIRPERSON: With – with Ms Gigaba about an hour. Okay. I have been informed that there are security reasons for us to adjourn. So I know that we were going to hear her
20 evidence and then Mr Pita's evidence. So we are going to adjourn. I am sorry about that it is a situation beyond everyone's control. And then we will just have to arrange – if we are left with an hour with her I wonder whether we could do that hour tomorrow if she is available in the morning before we start with Mr Pita.

ADV MYBURGH SC: And perhaps we could do that remotely DCJ if that would be better.

CHAIRPERSON: Well I – I think that we should be able to – we should still be able to come here.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Unless we are advised differently. I think we should still be able to. Ms Gigaba would you be available tomorrow morning? How is your situation? I am sorry your – your mic. Just switch on your mic.

10 **MS GIGABA:** It depends if my ...

CHAIRPERSON: Your legal attorney.

MS GIGABA: Yes is available – she is available. If she is available I will come.

CHAIRPERSON: Ja. What is your situation like?

ADV QOFA SC: Chairperson depending on the allocations of time I think maybe if we and I would understand for the hour that we would be able to finish.

CHAIRPERSON: Sorry.

20 **ADV QOFA SC:** The suggestion Chairperson was that we will finish – we need another hour.

CHAIRPERSON: Yes.

ADV QOFA SC: So I was trying to understand whether the time we need for tomorrow will be the hour that (talking over one another)

ADV MYBURGH SC: Yes.

CHAIRPERSON: Ja it would be an hour.

ADV QOFA SC: And maybe if I may ask Chairperson what time in the morning are we looking at so that I would have to reshuffle immediately.

CHAIRPERSON: I think with regard to Mr Gigaba we wanted to start at nine.

ADV MYBURGH SC: We wanted to start at nine tomorrow.

CHAIRPERSON: Ja

ADV MYBURGH SC: With Mr Gigaba. I think we probably
10 need to get an early – as early a start as possible DCJ.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Tomorrow morning.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Whatever you have – you consider appropriate.

CHAIRPERSON: Yes. With us sitting until as late as I thought we would this evening I was tempted to think well maybe ten o'clock instead of nine.

ADV MYBURGH SC: Yes.

20 **CHAIRPERSON:** But maybe we should stick to nine and use that nine to ten for her evidence and then we can take it from there and hear Mr Gigaba.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Gigaba's evidence after that.

ADV MYBURGH SC: And then I will – I will rearrange things

with Mr Pita.

CHAIRPERSON: With Mr Pita ja.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: Ja. Okay so is that fine you would be here? She says she is available if it is just an hour.

Yeah I (inaudible). I will come.

CHAIRPERSON: You will come. Okay thank you very much.

Thank you Chairperson.

ADV MYBURGH SC: DCJ sorry could I just ask you one
10 thing? Tomorrow you – we have to stop as you will recall
with Mr Gigaba at four o'clock because his counsel has got
for religious reasons. If I – if Mr Pita is available tomorrow
at four.

CHAIRPERSON: Ja.

ADV MYBURGH SC: Could we try and fit him in then?

CHAIRPERSON: Ja. Ja that is – that is fine. We will try.
How long do you think he would be?

ADV MYBURGH SC: No well I suppose that is not going to
work. Perhaps I could discuss that with you in chambers.

20 **CHAIRPERSON:** Ja we can discuss that ja.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: Ja. Okay alright thank you to everybody
for making it possible for us to continue up now at least. We
are going to adjourn then and we will continue tomorrow.

We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 21 MAY 2021